Klec 9 3

THE Compleat Justice:

BEING

An exact and Compendious Collection out of such as have Treated of the Office of Justices of the Peace, but principally out of Mr. *Lambert*, Mr. *Crompton*, and Mr. *Dalton*.

Now Amplified and Purged from sundry Errors which were in former Impressions thereof.

Whereunto are added,

Such Statutes made in the Reign of his present Majesty King *Charles* the II. as concern the Office of a Justice of the Peace.

Together with

A Compendious Charge to be given at the Quarter-Sessions.

Legis Præmio, aut pœnâ, vita moderatur Humana. Isidor. lib. 5. Etymolog.

London, Printed by *John Streater*, *James Flesher*, and *Henry Twyford*, Assigns of *Richard Atkyns*, and *Edward Atkyns*, Esquires, *Anno Dom.* 1667.

Cum gratia & Privilegio Regiæ Majestatis

Tx
C7372ju

Rec. Dec. 7, 1904.

TO THE READER.

Courteous Reader,

THe great Antiquity of Peace in this Nation ſpeaks not onely the manifeſt Utility, but alſo the Neceſsity of that weighty Office, which hath

been eſtabliſhed and enlarged by the grave Wiſdome of our Anceſtors by many ſucceeding Acts and Ordinances of Parliament, as you may perceive by the peruſal of this inſuing Enchiridion, and although in the former Impreſſions thereof, the Reader hath been much injured by corrupt Editions,

ditions, yet in this preſent Tract, you may be ſecurely confident of very few or no Errors at all, in regard it hath been reviſed with mature, and elaborate diligence, and therefore now no ſuch cauſe of diſcouragement for the buying of this beneficiall Collection as formerly; you ſhall finde in

To the Reader.

it also much new matter added concerning the said Office.

THE

THE TABLE

A

A Biuration. 1
Abſolve, vid. Treaſon. 368
Acceſsary and Principal. 1
Acquittal, vide Enditements. 85
Additions. 5
Affray and Affrayers. 7
Agnus Dei, Croſſes, Beads. 8
Alehouſes. 9
Alias dictus, vide Enditements. 85
Alien and his Tryal, vide Tryal. 373
Allegiance, vide Supremacy. 339
Amerciaments. 13
Appearance. 14
Appeachment, vide Approvers. 18
Apparel, Appeal. 15

Apprentices. 1
Approvers. 1
Archery. 1
Armour. 1
Arrests. 2
Arraignment. 2
Artificers, vide *Labourers.* 17
Assault, vide *Breach of the Peace.* 4
Assembly, vide *Unlawful assembly.* 38
Assise of Bread and Beer. 2
Attainder. 2
A wait-lying, vide *Way-laying.* 38
Averment. 2

B

Badgers and Drovers. 2
Bailment. 2
Bailiffs. 3
Bakers, vide *Assise of bread.* 2
Barettor. 3
Bastardy. ibid.
Bargain and Sale, vide *Involment.* 16
Bark of Trees, vide *Leather.* 18
Bastard. 3
Battery lawful, vide *Riot.* 29
Bath and Buxton, vide *License.* 19
Bawdery. 3
Beads, vide Agnus Dei. 8
Bearwards, vide *License.* 19
Beer and Beer-brewers, vide *Victuallers.* 37
Beggers, vide *Rogues.* 306, *and poor people.* 23
Blackwood, vide *Lo_wood.* 19

Blood-

THE TABLE.

Bloodshed. 40
Bowyers, vide *Archery*. 18
Bonds, vide *Recognizances*. 266
Brass and Pewter. 40
Breach of the Peace or Good behaviour. 41
Brewers, vide *Victuallers*. 377
Bridges. 43
Buckstall. 45
Buggery. 45
Bull from Rome, vide *Treason*. 368
Burglary. 45
Burning of houses. 48
Butchers. 48
Butter and cheese, vide *Victualls*. 337
Butts. 49
Buying and selling, vide *Cattel*. 51

C

Calves and Kine. 49
Captains. 50
Carriages. *ibid.*
Castle, vide *Felony*. 103
Cattel. 51
Certificate. 51
Certiorari. 53
Challenge. 55
Chance-medly, vide *Homicide*. 146
Chastisement, vide *House of Correction*. 155
Church and Churchyard. 55
Churchwardens. 56
Clark of the Peace. 58
Clark of the *Market*. 59

Clark of a Justice, vide *Fees*. 9
Clark of the Crown, vide *Certificate*. 5
Clergy and Sanctuary. 6
Cloth. 6
Commission of the Peace. 6
Commons. 6
Common-Prayer. 6
Concealment, vide *Jurors*. 16
Confession. 7
Conjuration. 7
Conservers of the Peace. 7
Constables. 7
Conventicles. 73
Conies, vide *Hunting*. 15
Corn. 74
Cutters and carriers away of corn, vide *Hedg-breakers*. 14
Coroners. 74
Coroners Fees, vide *Fees*. 99
Cottage. 75
County. 76
Cozeners. 76
Croßes, vide Agnus Dei. 8
Croß-bows and Hand-guns. 77
Curriers, vide *Leather*. 189
Customer, vide *Corn*. 74
Custos Rotulorum. 79
Cutpurse. 80
Cutting out of tongues. 80
Cutting of a Pond-head. 80

Deer,

D

Deer and Deer-hayes. 81
Demurrer. 81
Deputy. 81
Divine Service. ibid.
Doggs, vide Hunting. 157. and Partridges. 225
Drovers, vide Cattel. 51
Dier, vide Cloth. 64
Drunkenness. 82

E

Ecclesiastical persons. 84
Eggs of Wild-fowl. 84
Egyptians. 85
Embezelling of Records, vide Records. 169
Embracer, vide Maintainers. 199
Enditements. 85
Enquiry. 91
Enquiry of a Forcible entry, vide Forcible Entry. 117
Enquiry by Presentment, vide Presentment. 253
Enquiry by Examination, vide Examination. 95
Enquiry by Information, vide Information. 165
Escapes. 92
Escheators. 93
Eves-droppers. 94

Evidence. 94
Eſtreats. 95
Examination. 95
Extolling forrein power, vide *Treaſon.* 368
Exciſe. 97
Extortion. 97

F

Fairs and Markets. 99
Falſe Impriſonment, vide *Arreſt.* 20
Falſe tokens, vide *Cozeners.* 76
Fees. 99
Felo de ſe. 102
Felony. 103
Felonies by Statute. 103
Felony of his own goods, vide *Theft.* 351
Ferrets, vide *Hunting.* 157
Fewel. 110
Fines. 110
Fines of Rioters, vide *Riot.* 290
Fines of Brewer, Baker, vide *Aſſiſe of Bread.* 23
Fiſh. 112
Fiſh-dayes. 113
Flax. 114
Fleſh, vide *Fiſh-dayes.* 115
Force. 115
Forfeitures of a Recognizance taken for the Peace. 129
Forgery. 130
Forein power, vide *Treaſon.* 368
Forein Plea. 130

THE TABLE.

Forreſter. 131
Foreſtalling and Foreſtaller. 131
Fowlers and Fowling. 132

I

G

Games, vide Unlawful Games. 379
Gaol, Gaoler. 132
Glaſs-men. 134
Goldſmith. 134
Good abearing. ibid.
Grey-hounds, vide Hunting. 157
Guns and Gunners. 137

H

Hares. 139
Harneſs. ibid.
Hart proclaimed, vide Deer. 81
Harveſt time. 139
Hawks and Hawking. 140
Hay and Oats. ibid.
Hedge-breaker. 141
High-wayes. ibid.
Homicide. 146
Horſes and Mares. 152
Horſe-bread. 154
Hoſpital. ibid.
Hoſpitality, vide Religious Houſes. 283
Houſe. 155
Houſe of Correction. ibid.
Hunting. 157

Hundred. 160
Hue and Cry. 162

I

Jesuites and Seminaries. 163
Imprisoament, vide *Prison.* 254
Indictments, vide *Enditements.* 165
Information. 165
Informers and Promoters. 166
Ingrossers. ibid.
Inn-holders. 167
Inmates, vide *Cottages.* 75
Inrolment. 167
Issues. ibid.
Judgment. 168
Juglers, vide *Rogues.* 306
Jurors. 168
Justices of Peace. 171

L

Labourers and Servants. 178
Larceny. 184
Leather. 189
Leets. 195
Lent, vide *Fish-dayes.* 113
Liberties and Franchises. 195
Libellers. 196
Licences. 197
Linnen cloth. ibid.
Lying in a way, vide *Way-laying.* 384

THE TABLE.

Logwood. 198
Long-bows. *ibid.*

M

Masons. 199
Mainprise, vide *Bailment.* 25
Maintainers and Embracers. 199
Maim. 200
Malt. 201
Manslaughter, vide *Homicide.* 146
Mariners. 202
Market-overt. 203
Marriage. *ibid.*
Mass. 204
Master, vide *Labourers.* 178
Measure, vide *Weights.* 393
Messages false. 204
Milch kine, vide *Calves.* 49
Minstrels, vide *Rogues.* 306
Misprision. 205
Misprision of Treason. 205
Misprision of felony. 207
Mitigation of Fines. *ibid.*
Mittimus. *ibid.*
The form of the Mittimus. 208
Monasteries, vide *Religious Houses.* 283
Mortuaries. 208
Multiplication of Gold, &c. 209
Murder. *ibid.*
Musters. 213

N

NAme. 213
Nets, vide *Hunting*, 157. and *Partridges*. 225
News. 214
Next Justice. *ibid.*
Noble Personages. *ibid.*
Night-walkers, vide *Watches*. 390
Non sanæ memoriæ. 215
Nusans. 215

O

OBedience to the *King*. 216
Officii colore. *ibid.*
Ordinary. *ibid.*
Oath. 217
Orchards, vide *Hedg-breakers*. 141
Overseers of the Poor. 220

P

PAnel, vide *Jurors*. 168
Pardon. 222
Park and Parker. 224
Parson and Vicar, vide *Ecclesiastical persons*. 84
Partridges and Pheasants. 225
Peace. 228

Peer, vide *Noble Parſonages.*	214
Pedlers, vide *Rogues.*	306
Perjury.	230
Petty treaſon.	231
Pewter, vide *Braſs.*	40
Phyſitian.	232
Pictures, vide Agnus Dei.	8
Plays and Players, vide *Rogues.* 306. vide *unlawful Games.*	379
Plague.	232
Plants in Court.	434
Pond and pond head, vide *Fiſh.*	112
Poyſoning, vide *Murder.*	209
Pope.	235
Popiſh Books.	236
Poor people.	*ibid.*
Poſſeſſion actual and in law.	249
Power of the County.	*ibid.*
Preacher.	250
Preceptt, vide *Warrants.*	384
Præmunire.	251
Preſentment.	253
Prieſts, vide *Jeſuits.*	163
Principal, vide *Acceſſary.*	1
Priſon.	254
Priſoners.	256
Privy-Seſſions, vide *Seſſions.*	317
Proteſs.	258
Proclamation.	261
Promoters, vide *Informers.*	166
Prophesying.	261
Purveyors.	262
Putting out of eyes.	265

Q

Quarter-Sessions, vide *Sessions*.
Quakers, vide *Sectaries*.

R

Rape or *Ravishment*.
Rates, vide *Taxations*.
Rebellious Assemblies.
Recognizances.
Reconciliation, vide *Treason*.
Records.
Recusants.
Regrator.
Release.
Religious houses.
Replevin, vide *Bailment*.
Rescous of a Felon.
Restituiion of Possession.
Restitution of stoln goods.
Return.
Revenue of the King called Hearth-money.
Riots.
Rivers.
Robbery.
Robbing an house.
Rogues.
Rome, vide *Pope*.
Rout.

S

Sacriledge. 315
Sacraments. ibid.
Salmons, vide Fish. 112
Salt-peter-men. 316
School-master. ibid.
Seditious Sectaries. ibid.
Sermon, vide Preaching. 250
Servants, vide Labourers 178
and Apprentices. 15
Serving-men, vide Testimonial. 350
Sessions of the Peace. 317
Sewers. 321
Sheep. ibid.
Shcriff. 312
Shooes. 326
Shooting. ibid.
Silk, vide Apparrel. 15
Slope, vide Vessels. 376
Souldiers. 327
Star-chamber. 332
Stolen goods. ibid.
Stewards of Courts. ibid.
Stock of the Shire. ibid.
Subsidy. 334
Suggestion, vide Information. 165
Summons of the Sessions, vide Sessions. 317
Sunday. 334
Supersedeas. 336
Supplicavit. 339
Supremacy. ibid.

Surety of the Peace. 34
Suspicion and suspects of Felony. 34
Swans. 34
Swearing. ibi

T

Taxations. 35
Tale-bearers., vide *News.* 2
Tanners, vide *Leather.* 1
Tavern-keeper. 35
Testimonial. ib
Theft. 36
Threatning. 37
Tile-making. 39
Tipling. 39
Tythes. 3
Tobacco. ib
Toll. 3
Transportation. 3
Traverse. 3
Travelling beyond Sea. 3
Traveller. 3
Treason. ibi
Treasurer. 37
Trespass, vide *Hedge-breakers.* 14
Trial. 37
Turn of the Sheriff. 37

Vagabonds

V

Vagabons, vide Rogues. 306
Venire facias. 375
Verdict. ibid.
Vessels. 376
Victuals and Victuallers. 377
Under-Sheriff. 378
Unlawful Games. 379
Unlawful Assemblies. 380
Usury. 381
Utlawry. ibid.

W

Wages. 382
Wainlings. 384
Wait-lying. ibid.
Warrants. ibid.
Warrants, vide Forrester. 131
Watches. 390
Watermen. 391
Wax. 392
Weapons which be forcible, vide Forcible Entry. 117
Weers. 392
Weights and Measures. 393
Witchcraft. 394
Wines. 395
Woad. 396
Wood. ibid.

Wooll and Wool-seller. 397
Woollen-yarn. ibid.
Women. ibid.

Resolutions of the Judges of Assizes. 399
A Compendious Charge to be given at the Quarter-Sessions. 417

Abju

Abjuration.

THE abjuration of a ſeditious "Sectary ought to be made in "open quarter Seſſions of the "Peace, and there to be en-"tred of Record in the Rolls "of the Seſſions by the Clark of the Peace, "35 *El. cap.* 1. *&* 2. *Lam.* 615.

Abjuration of a ſeditious Sectary made in open Qu. Seſſions muſt be certified to the Juſtices of Aſſiſe at the next Aſſiſes, 35 *El. c.* 1. *Lam.* 590.

Juſtices of Peace cannot arraign a man upon his abjuration for Felony, *Lam.* 551.

Vide plus Recuſants.

Abſolve, *Vide* Treaſon.

Acceſſary and Principal.

Who ſhall be an acceſſary before the fact.

1. Abetter, Procurer, or Conſenter to a felony, *Dal.* 292, 293. *Cro.* 41. a. *nu.* 1. *Lam.* 286, 287. 288. *Stamf.* 44. a.

2. Commander of an evil act is acceſſary to the felony proceeding thereof: as if death proceed of beating or robbing, *Lamb.* 286. *Dal.* 293. *Cro.* 43. a. *nu.* 34.

3. Commander of one felony, whereby another ensueth, is accessary to the second: as, *A.* commandeth *B.* to fire the house of *C.* and thereby many are fired, *Lam.* 286, 287. *Cro.* 43. b. *num.* 36.

4. Commander of a felony, though it be executed in another fashion, time, and place, or manner than was commanded, *Lam.* 286, 287. *Cro.* 42. a. *nu.* 14. *Dal.* 293.

"5. When a Statute ordaineth an act to be "treason or felony, which was not so at the "common law, and saith not, that the abet"tors, aiders, comforters, or consenters shall be "felons, yet it shall be felony in them, *Dal.* "292, 297. *Lam.* 285.

Who not.

The felony commanded is executed on another person, the commander is not accessary, *Lam.* 287, 288.

The commanded performing more than was commanded, committeth Felony, the commander is not accessary, *Lam.* 287.

The commander of one felony to be done to a man, is not accessary to another kind of felony committed against the said party: as one counselled to poison *A.* giveth it to *A.* and *B.* the counseller is not accessary to the murder of *B.* *Lam.* 287, 288.

"Commander or counseller to a fact coun"termandeth it before it be done, *Lam.* 288. "*Dal.* 293, *Cro.* 42. a. *nu.* 16.

The knower of a Felony without consenting, *Lam.* 289. But such concealment is fineable, *Cro.* 42. b. *nu.* 8, *Dal.* 294.

One not party nor privy who is present at a felony, and doth not disturb it, nor pursue the felon, is fineable, *Lam.* 289. *Dal.* 292.

Accessary after the fact.

Receiver of a felon, knowing him to be one, and suffering him to escape, whether before or after attainder, *Crom.* 42. a. *nu.* 11. *Dal.* 294.

Receiver or comforter of a felon with an evil intent, *Lam.* 289. *Dal.* 294.

Arrester of a felon by Hue and cry taketh the goods, and letteth him go, *Lam.* 290.

One pursuing a felon for his own goods, taketh money of him not to give evidence against him, whereby he is freed, *Lam.* 290.

Receiver or comforter of an accessary, knowing thereof, *Lam.* 291. *Dal.* 297.

Receiver of ones brother, knowing him to be a felon, *Lam.* 291. *Dal.* 295.

Receiver of an approver, or one attainted or outlawed of felony, knowing thereof, *Dam.* 293.

To harbour a felon attainted in the same County, *Cro.* 43. a. *nu.* 31. *Dal.* 294.

But *Lamb.* 293. holdeth it reasonable that he first have knowledg of such a record.

Receiver of stollen goods, knowing them to be stollen, *Cro.* 41. b. *nu.* 3. many authorities remembred: but 42. a. *nu.* 17. he saith, that he must receive the felon also. *Vide Cro. &c. Vide Crom.* 42. b. *nu.* 23. & 43. b. *nu.* 37. *Dal.* 295.

Who not.

A Suitor by word or writing for the deliverance of a felon, knowing thereof, *Lamb.* 289, 290. *Dal.* 294.

Pursuer of a felon for his own goods, taketh them again, and letteth him go, *Lamb.* 290. *Dal.* 296.

Reliever or Receiver of one bailed for felony, *Lam.* 290. *Cro.* 42. b. *nu.* 25. *Dal.* 294.

Buyer of stollen goods, knowing thereof, *Lamb.* 291. unless he receive the felon, *Crom.* 42. a. *nu.* 17. *Dal.* 295.

The wife receiving the husband, knowing him to be a felon, *Lam.* 291, 292. *Dal.* 295.

Receiver of the striker of the stroke, after the stroke, and before the death, *Lam.* 292.

After acquittal as principal, one may be arraigned as accessary after the fact, but not before the fact, *Lamb.* 292, 557. *Crom.* 42. b. *num.* 18.

One may be accessary to an accessary: as if one feloniously receive or comfort an accessary, *Dal.* 297. *Lam.* 291. *Cro.* 42. b. *nu* 24.

Who shall be said a Principal.

Those of the society of a Felon, and present at the fact, though not actors, *Stamf.* 40. *Cro.* 22. a. *nu.* 10. 15. *Dal.* 291.

An abetter, procurer, or receiver of a woman, knowing her to be taken away contrary to the Statute, 3 *H.* 7. *cap.* 2. *Lamb.* 285.

Accessary in one County to a felony done in another County, may be indicted where

he becometh accessary, 2 & 3 *Ed. 6. cap.* 24. *Dal.* 297.

It is no good indictment against an accessary, to say, that he received the goods, without saying he received the felon, *Lamb.* 500. 291.

Acquittal, *vide* Enditements.

Additions.

In every indictment or presentment where outlawry lyeth, the estate of degree or mystery, the county, town, hamlet, or place where the indicted dwelleth, are to be added, 1 *H.* 5. *cap.* 5. *Lam.* 488.

What shall be a good addition of degree or estate.

Duke, Marques, Earl, Viscount, Archbishop, Bishop, Baron, Knight, Serjeant at Law, Esquire, Gentleman, Alderman, Widow, single Woman, Dean, Arch-deacon, Parson, Doctor, Clerk, Parish-clark, *Lam.* 488, 489, 490.

What not.

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertain, as Farmer, Servant, Butler. Chamberlain, *Lam.* 489. *Cro.* 109. a. 6. *nu.* 8.

What shall be a good addition of Mystery.

Chopchurch, Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hostler, Leighter-

man, Waterman, Labourer, *Lam.* 489.

What not.

That which is no Myſtery nor degree, as Citizen; nor any unlawful trade, as Extortioner, Maintainer, Vagabond, Heretick, Dicer, Carder, &c. *Lam.* 489.

Addition of degree or myſtery muſt be as the party then is. But addition of the place may be ſuch whereof he was, *Lam.* 489, 490. *Additions Br.* 41.

Addition of degree and myſtery muſt be knit to the proper perſon, *Lam.* 489.

The Statute of the 1 *H.* 5. *cap.* 5. of additions, doth not extend to informations, *Lamb.* 510.

What ſhall be a good addition of place.

Either of the Town or Pariſh, if they be both of one name, *Lam.* 490.

Of the Town only, where there be two Towns in one Pariſh, *Lamb.* 490.

Either of the Town or Hamlet, if there be two Hamlets in one Town, *Lam.* 490.

Of the Town, if the perſon be of a place known within the Town, *Lam. ibid.*

Addition muſt comprehend the County, Town, or Hamlet, whereof the party is or was, *Lam. ibid.*

What not.

Of the place where he is Parſon, without naming the place of his abode, *Lam. ibid.*

Affray and Affrayers.

An Affray may be without word or blow: as, to be armed with armor or weapon not usually born, *Lam.* 126.

"It is no affray properly unless there be "some weapon drawn, or stroke given, or "offered to be given, or some such attempt, *Dal.* 34.

Constable or other Officer may lay no hands on any intending to make an affray till weapon drawn, or offer of blow. *Dal.* 34, *Lam.* 132. *Cro.* 146. a.

"An affray is in a house, and the doors "are shut, the Constable may break into the "house to see the peace kept. *Dal.* 34.

"If the Affrayers fly into another house, "into a Franchise or other County, the "Constable upon fresh suit may pursue "them, but cannot meddle out of the Coun-"ty, but as a private man. *Dal.* 34.

Affrayer may be commanded by the Constable or other officer to avoid upon pain of imprisonment: and if the affray be great, they may make proclamation, and command the parties to prison for a small time, whom he must deliver without fine. *Lamb.* 132, *Dal.* 34.

"After an affray, a Justice of Peace may "commit the offenders till they find sureties "(if the affray were in his presence;) if out "of his presence, he may send his warrant, "and commit them till they do find sureties. *Vide* Surety of the peace.

"If a man be dangerously hurt, and the "wound mortal, although the Justice of

" Peace may bail the offender, yet it is the " safeſt way to commit him till there appear " ſome hope of recovery, *Dal.* 35.

" If an aſſault or affray be made upon a " Juſtice or Conſtable, they may defend " themſelves. The Juſtice may cauſe them to " be arreſted, the Conſtable may commit " them to the Stocks, and after carry them " before a Juſtice of Peace, *Dal.* 35. *Vide* " Peace.

" An affray is in a corporate Town (which " hath Juſtices within it ſelf) while the Seſ- " ſions be held there: the Juſtices of Peace " ſhall not meddle there; but it is other- " wiſe at the Aſſiſes, *Cro.* 146.b.

Every private man preſent at an Affray, aſſault, or battery, may part them, ſtay them that come to the affray with weapons, ſtay the affrayers till the heat be over, and then deliver them to the Conſtable; but may not commit them, unleſs one of the affrayers be in peril of death. And if he fly into a houſe, upon Hue and Cry break open the houſe, and take him, *Dal.* 33. *Lamb.* 131. *Cro.* 146. a. *Vide plus* Conſtable.

Agnus Dei, Croſſes, Beads, &c.

If any perſon, to whom any of theſe, or any other ſuperſtitious things from the See of *Rome*, or authority thereof be offered, do diſcloſe the name, dwelling, or place of reſort of ſuch offerer or deliverer to any Juſtice of Peace of the ſame Shire, the ſame Juſtice muſt within fourteen dayes next after declare the

the ſame to ſome one of the Privy Counſel, on pain of Premunire, 13 *El. cap.* 2. *Dal.* 105. *Vide Plus* Treaſon, Miſpriſion, and Premunire.

Alehouſes.

Two Juſtices, one being of the Quorum, may Licenſe one to keep a common Alehouſe, taking bond with good ſurety for good rule to be kept in his houſe, 5 *Ed.6. cap.*25. "And an Alehouſe-keeper put down by two "ſuch, cannot be allowed by any other two, "but in open Seſſions, *Dal.* 29.

Twelve pence is given to the two Juſtices of Peace, for taking a Recognizance of him that is allowed to keep a common Alehouſe, 5 *Ed.6.cap.*25. *Lam.*370. Condition of a recognizance for an Alehouſe, *Lam.*354.

He that keepeth an Alehouſe of his own authority, without licenſe of two Juſtices, one being of the Quorum, or after prohibition of two ſuch Juſtices, may by two ſuch Juſtices be committed to priſon for three dayes without bail, and till he be bound with two ſureties to keep none after, *Dal.*29. *Lam.* 354. "*Vide* Stat. 3 *Car.* 3. which alloweth ſelling "of beer or ale in Fairs (though unlicenſed:) "As alſo the puniſhment of perſons unli- "cenſed.

Information of the offence and recognizance taken by two Juſtices, one being of the Quorum of an Alehouſe kept againſt the Statute of 5 *Ed.6.ca.*25. and certified by them to the Seſſions, is a ſufficient conviction

without further tryal at the Seſſions: and they may aſſeſs the fine of 20 ſhillings without making proceſs againſt the offender, *Lam.* 572.

Information made in Seſſions, that an Alehouſe-keeper hath done an act, whereby he hath forfeited his recognizance, they may award proceſs againſt him, to ſhew why he ſhould not forfeit his recognizance. Quære what proceſs. *Lam.* 524, 529.

Enquiry, whether Alehouſe-keepers have forfeited their Recognizance, ought to be at the Quarter Seſſions. 5 *Ed.* 6. 25.

Fines impoſed by the Stat. of 5 *Ed.* 6. *c.* 25. concerning Alehouſes cannot be altered by the Juſtices of Peace. 5 *Ed.* 6. *c.* 25. *Lam.* 578.

Juſtices of Peace muſt certify the recognizance taken for Alehouſes at the next Quarter Seſſions after they are taken, or loſe five Marks 5 *Ed.* 6. *ca.* 25.

Any directly or indirectly ſelling Ale or Beer unto any Alehouſe-keeper not licenſed, more than for his neceſſary proviſion for his houſhold, ſhall loſe after the rate of 6 ſhillings 8 pence for every barrel. For the levy and diſpoſal of the penalty. See *Victuals*, 4 Jac. 4.

Alehouſe-keeper or Inne-keeper ſuffering any tipling contrary to the 1 Jac. *ca.* 9. 4 Jac. *cap.* 5 7 Jac. *cap.* 10. 21 Jac. *cap.* 7. forfeiteth 10 ſhillings, and every ſuch tipler 3 ſhillings 4 pence: for not ability of payment, the Alehouſe-keepers &c. to be committed to the Gaol till the penalty be payed, which penalty

is

is to be paid within ſix dayes, or the diſtreſs to be ſold, 1 Jac. *cap.* 9. the tipler to the Stocks for four hours. 4 Jac. *cap.* 5. *Dalt.* 28. 1 *Car.* 4.

Juſtice of Peace hath power in thoſe caſes to miniſter an oath to witneſſes, wherein the oath of one witneſs is ſufficient. 1 *Car. cap.* 4. 1 Jac. 9. 21 Jac. 7.

The Conſtables and Churchwardens neglecting to levy, or to certify the cauſe thereof by 20 dayes to the Juſtice that granted the diſtreſs, do forfeit 40 s. in default thereof to be ſent to the Gaol till paiment be made. 1 Jac. *cap.* 9. *Dal.* 28. *Cro.* 78. 2.

Alehouſe-keepers and Inne-keepers ought to lodg travellers. *Quære* how he is compellable, and ſee the Opinion of Sir *James Ley* Chief Juſtice at Lent Aſſiſes 1622. *Dal.* 28.

"No Inn-holder, Alehouſe-keeper, or o-
"ther Victualler ſhall be compelled to ſell
"victualls to others, or to have lodging, ex-
"cept the party firſt pay ready money. *Dal.* 28. *Coke lib.* 9. *fol.* 87; b. *Brook. action ſur le Caſe* 76.

"Selling of leſs than a full Ale-quart of the
"beſt Beer or Ale for 1 d. and of 2 quarts of
"ſmall for 1 d, upon oath of one witneſs, the
"penalty is 20 ſhillings. 1 *Jac. cap.* 9 4 *Jac. cap.* 5. 21 *Jac. cap.* 7. *Dal.* 26.

"Any tippling in any Inne, Alehouſe, or
"Victualling houſe, whereſoever his habita-
"tion be, forfeiteth 3 ſhillings 4 d. 21 *Jac. cap.* 7. *Dal.* 28.

"A ſeme

"A feme covert keepeth an Alehouſe, and "ſelleth Ale, &c. without licenſe, contrary "to her husbands will, the husband is pu- "niſhable, *Dal.* 30.

"The voluntary confeſſion before one Ju- "ſtice of Peace of any offender againſt the "Stat. of 1 *Jac. c.* 9. or 4 *Jac. c.* 5. is ſufficient "to convince the party offending. And after "confeſſion, the oath of the party confeſſing "is proof againſt any other offending at the "ſame time, *Dal.* 26. 21 *Jac. c.* 7.

"Alehouſe-keepers are diſabled to keep "Alehouſe for three years after.

1. If they ſuffer tipling, *Dal.* 31.

2. If they ſell not a quart of the beſt, and 2 quarts of ſmall Beer or Ale for a penny, *ib.*

3. If they be convicted by Indictment at the Aſſiſes, Seſſions, or Leet, for being drunk, 4 *Jac. c.* 5. or before one Juſtice upon oath of one witneſs, 21 *Jac. c.* 7.

4. Continue drinking in another Alehouſe, 7 *Jac.* 10. 4 *Jac.* 5. *Dal.* 32. *Vide plus* Victuallers confeſſion.

In all theſe caſes, if he be licenſed again within three years, ſuch licenſe is void, and he to be puniſhed as victualling without licence, *Dal.* 32.

If any unlicenſed Alehouſe-keepers be convicted by the view of any Juſt. of the Peace, confeſſion of the offender, or oath of two witneſſes, he loſeth 20 ſhillings to the uſe of the poor of the Pariſh, to be levied by way of diſtreſs by warrant from the Juſtice of Peace convicting, and within 3 dayes to be ſold, 3 *Car. cap.* 3.

Where

Where there is no ſufficient diſtreſs or non-payment, within ſix daies after conviction, the Offender is to be openly whipped at the Juſtice of Peace ſhall limit, 3 *Car. cap.* 3s

The Officer refuſing or neglectiug to execute the Juſtice his precept, is to be committed to the Gaol, until he do or procure the Offender to be whipped, or pay 40 ſhillings to the uſe of the poor of the ſaid Pariſh, 3 *Car. cap.* 3.

The ſecond offence is commitment to the houſe of Correction for a moneth, *Ibid.*

The third offence is to remain in the houſe of Correction till he be delivered at the general Seſſions, *Ibid.*

He that is puniſhed by the Act, 3 *Car.* 3. not to be puniſhed by the Statute, 5 *Ed.* 6. *cap.* 25. *& è contra.*

Aliàs dictus, *vide* Indictment.

Alien and his trial, *vide* Trial.

Allegeance, *vide* Supremacy.

Amerciaments.

The Owner of a Beaſt, knowing it to be harmfui, and not reſtraining it, whereby it killeth one, is to be arraigned for his death, and amerced for the King, *Lamb.* 239. *Cro.* 24. *nu.* 45. *Dal.* 238.

Offenders in gathering more amerciaments then are in their lawful eſtreats, to be convicted by two Juſtices, one to be of the Quorum,

rum, appointed by the Custos Rotulorum, or in his absence by the eldest of the Quorum, for the oversight of the Sheriffs, 11 *H.*7.15.

Estreats of amerciaments must by by Indenture between the two Justices (appointed for oversight of Sheriffs Books) and the Sheriff, or Under-Sheriff, under their Seals, or else the Sheriff to lose 40 shil. 11 *H.* 7. *cap.* 15,

No amerciament for default of appearance, when the Sessions are not summoned by precept, *Lom.* 381. or when the summons is at one place, and kept at another, *Ibid.*

Or when the Sessions were the same time at two places, and the party appeared at one of them, *Lam.* 384.

Justices of Peace cannot amerce their fellow, for absence from the Sessions; but a Justice of Assise may amerce a Justice of Peace for his absence from the Gaol-delivery, *Lam.* 385.

Clerk of the Peace, Coroners, Sheriffs, Bailiffs of Franchises, Constables of Hundreds, may be amerced for default of appearance at Sessions, *Lamb.* 395.

Amerciaments of Jurors for concealment. *Vide* Jurors, *Lam.* 400, 401. 3 *H.* 7. *cap.* 1.

Appearance.

Recognizance taken for the Peace against all the Kings people, and to appear at the next Sessions by Supersedeas out of the Chancery, testifying surety found there against all the Kings people for ever, will discharge

charge the appearance of the next Quarter Seſſions. Otherwiſe it is, if it be but until a day certain, *Lam.* 112. *Dal.* 173.

Who ſhall be amerced for default of appearance, and who not, *vide* Amerciaments, Releaſe.

Appeachment, *vide* Approvers.

Appeal.

Juſtices of Peace can take no appeal of any felony, *Lam.* 550. *Stamf.* 65. a. *quære tamen.*

Appeal of robbery, *vide* Attainder.

Apprentices.

One thought fit to be bound as an Apprentice, upon complaint made, and refuſing to be bound, ſhall be committed till he will be bound, 5 *El.* 4. *Dal.* 78.

Upon complaint of an Apprentice, one Juſtice may take order betwixt his Maſter and him, and for want of conformity in the Maſter, may bind him to appear at the Quarter Seſſions, *Dal.* 78. and to be diſcharged by four Juſtices. If default be in the Apprentice, it ſeemeth one Juſtice may ſend him to the houſe of Correction, *Dal.* 78.

Aſſent of two Juſtices is ſufficient to the Churchwardens or Overſeers, or the moſt of them, to bind as Apprentices the ſons of poor Parents, not able to keep and maintain them, till 24 years of age, or their daughters till 21 years of age, 32 *El.* ca. 3. 43 *El.* ca. 2.

Dal.

Dal. 83. *Lam.* 331: 21 *Jac.* 28. continued by 1 *Jac. c.* 25.

Diſpoſition of money given for putting forth Apprentices, and the nomination and placing of them muſt be by the Corporation, and in Towns not corporate by the Parſon or Vicar, Conſtable, Church-warden, and Overſeers for the time being, or moſt part of them, the ſame to be according to the will of the Giver: And any of the diſpoſers forbearing and refuſing to diſpoſe of the money, whereby it is not diſpoſed, ſhall loſe 3 pounds 6 ſhillings 8 pence, one moiety to the poor of the Pariſh, the other to the Informer, 7 *Jac. cap.* 2.

Diſpoſers of ſuch money given for apprentices, are to take Bond with two Sureties of ſuch Maſter or Miſtreſs, for ſuch mony as they ſhall ſo receive, for the repaiment thereof at the end of ſeven years, or three months after, 7 *Jac. cap.* 3. Or if the Apprentice die within 7 years, then to repay the money within one year after ſuch Maſter or Miſtreſs death, 7 *Jac. cap.* 3.

The Maſter or Miſtreſs dying within ſeven years, the diſpoſers are with the ſaid money to put out the ſaid Apprentice to ſome of the ſaid Trade, to ſerve out the reſidue of his 5 years, 7 *Jac. cap:* 3.

Money given for putting forth Apprentices, is to be diſpoſed within three months after the receit, *ibid.*

None above 15 years old are to be placed by the diſpoſers, and thoſe to be of the poorer

poorer sort; and for want of such they may chuse others of the Parish next adjoyning, *Ibid.*

Disposers of money for Apprentices are to account before two Justices next adjoyning yearly in Easter week, or within a moneth after: and within ten daies after such accompt made, must deliver all such mony and bonds remaining in their hands, to such as succeed in their rooms, *Ibid.*

He is no Apprentice, if he be not retained by Indenture, and by the name of an Apprentice expresly, *Cro.* 185. b.

Breakers of trust for disposing money given for Apprentices, are to be examined and redressed by Commission out of Chancery returnable within 3 moneths, and the party grieved by an act of the Commissioners, is to be relieved upon his Bill in Chancery, 7 *Jac. cap.* 3.

Certificate to the head-Officer of a City or Borough, that the Parents of an Apprentice to a Merchant, Mercer, Draper, Goldsmith, Ironmonger, Embroiderer, or Clothier, may dispend 40 shill. freehold, must be under the Hands and Seals of three Justices where the land lieth, 5 *El. c.* 4.

Apprentice is to be discharged by four Justices in open Sessions, *Dal.* 79.

The discharge of an Apprentice is to be inrolled by the Clark of the Peace, 5 *El. c.* 4. *Vide plus* Labourers.

A Master putteth his Apprentice into apparel, he cannot take it away, though he part

part with his Apprentice, *Dal.* 96.

Every Housholder having half a plough-land in tillage, may take an Apprentice betwixt the age of 10 and 18 to serve in husbandry, which must be by Indenture, 5 *Eliz. cap.* 4.

Approvers or Appeachers.

Gaoler, Keeper, or Under-keeper by pain compelleth his prisoner to become an appeacher of others, it is felony, 14 *E.* 3. *cap.* 10.

Justices of Peace can take no appeal of an approver, *Lam.* 550. *Stamf.* 114. 2. *Dal.* 320.

One felon accuseth another before the Justices of Peace; they may take his confession and reprieve him, and so proceed against the other, *Lam.* 551.

Archery.

" Justices of Assise, Gaol-delivery, and of
" the Peace, & Stewards of Leets have power
" to enquire, hear, and determine of the Statute
" 33 *H.* 8. *c.* 9. and also by their discretion ex-
" amine all persons lacking and not having
" bows, shafts and arrows, according to the
" form of the said Statute, *viz.* being under
" 60 years, and have not in his house bow
" and arrows, or have not used shooting. And
" every man-child between 7 and 17 years
" of age, not having a bow and two shafts, and
" above 17 years, four shafts, he loseth for
" every month 6 shill. 8 pen. *Lam.* 481. 33 *H.*
" 8. *cap.* 9.

Armour.

Armour.

Any (except the Kings Officers and their company doing their ſervice) riding or going armed, or bringing force in affray of the people, are to be impriſoned, and loſe their armour, 2 *E.* 3. *cap.* 3. *Dal.* 35. *Cro.* 76. a.

Juſtices of the Peace not looking to the execution of the Statute of fearing the Country with going or riding armed, upon enquiry by the Judges of Aſſiſe, are to be by them puniſhed, 2 *Ed.* 3. *cap.* 3.

The counterpain of the Indenture of armour to be kept by the Clark of the Peace, 4 & 5 *Ph. & Ma. cap.* 2.

The Statute of 4 & 5 *P. & M.* concerning keeping of horſes and armour, with the penalties thereof, are repealed, 1 *Jac. c.* 25.

Armour and Munition of a Recuſant convicted, being in his own poſſeſſion, or at his diſpoſe, other then ſuch as ſhall be thought meet for the defence of his perſon and houſe, by warrant of four Juſtices at the Quarter Seſſions, are to be ſeiſed and kept at ſuch place as the four Juſtices at the Seſſions ſhall appoint, at the coſt of the Owners; and they, concealing or diſturbing the delivery of it, loſe the armour and munition, and by warrant from any Juſtice of Peace, to be impriſoned 3 months without bail, 3 *Jac. c.* 5. Recuſant having his armour ſeiſed, is to be charged with ſuch armour and horſe, as he and others of his Majeſties Subjects ſhall be commanded to ſerve with at muſters, 3 *Jac. c.* 5.

Any

Any Justice of Peace may arrest any (except the Kings Officers, and such as do him service) that go armed, and bind them to the peace, or good behaviour, *Cro.* 76. a. *Dal.* 36. *Lam.* of Const. 13.

A Justice of Peace may cause weapons to be taken from prisoners brought before him, *Dal.* 36.

No servant in husbandry, artificer, victualler, or labourer, shall wear sword or dagger, 12 *R.* 2. *c. Dal.* 36. *Cro.* 76. b.

Arrests.

An Arrest is a certain restraint of a mans person, depriving it of its own will and liberty, and binding it to become obedient to the will of the law, *Dal.* 343. *La.* 93. *Cro.* 38. a. *nu.* 1.

All lay persons under the degree of a Baron or Peer of the Realm, are subject to an arrest, *Lam.* 93. *Dal.* 343.

Ecclesiastical persons not attendant upon divine Service, may be arrested for the peace, *Lam. ibid. Dal.* 166.

Constable, or Justice of Peace coming to arrest an affraier, if he flie into another house, they may in fresh suit break open the door, and take him: So if he flie into another County, *Lam.* 134. *Dal.* 34.

All that come to the Sessions for publick service, or upon compulsion, upon complaint and examination of the matter by oath, shall be freed from any arrest upon original process, *Lam.* 402.

Bailiff

Bailiff taking above 4 pence for any arreſt ſhall forfeit 40 li. 23 *H. 6. ca.* 10.

The Officer ought to require the party to come and find ſurety of the peace, before he arreſt him, by the opinion of 5 *Ed.* 4. 31. *Lam.* 90. *Dal.* 166.

If one required by the Officer upon warrant to find ſurety of the peace, refuſe, the Officer by virtue of his warrant may convey him to priſon, *Lam.* 92. *Dal.* 171.

"In all criminal cauſes, where one incurreth loſs of member, or of life, every man "may arreſt him, whether he hath warrant "or not, *Dal.* 344. But where a private man "arreſteth any in the caſes aforeſaid, he "ought to deliver him to the Conſtable, or "ſome Officer, *Dal.* 384.

"When a felony is committed, 1. any man "that ſuſpects another may arreſt him: 2. or "if there be common fame that he committed "the felony: 3. or if he be proſecuted with hue "and cry: 4. or if he be in company of the "Offenders: 5. or he apparantly go about to "commit a felony, *Dal.* 345. *vide Cro.* 99. b.

"A man is ſlain, or a felony committed, "and an innocent party is arreſted for the "ſame; he cannot be delivered but by order of "law, *Cr.* 40. b. *nu.* 20. *Dal.* 279, 304. *Lam* 233.

A Conſtable taking an affraier, may not impriſon him in his houſe, but in the Stocks, *Lam.* 133. *Vide* Riot, Sheriff, Priſon.

Arraignment.

Arraignment is commonly a compulſory coming

coming of one indicted of a matter touching life or such hainous offence, and a pleading not guilty, *Lam.* 546.

One coming in freely, and indicted of an inferiour offence, may be arraigned, *Lam.* 547.

One arraigned of felony, if his case will serve, may plead a justification or matter in law, *Lam.* 547. And the Court shall assign him counsel, *Cro.* 110. *nu.* 5.

"He that is arraigned of felony shall have "leave to bring him into the Court who sold "the thing to him, and the Court shall assign "him counsel, *Cro.* 100. a. *nu.* 3.

Artificers, *vide* Labourers.

Assault.

Assault cannot be made without the offer of some hurtful blow, or at least of some fearful speech, *Lamb.* 126.

To rebuke a collector with foul words, so that he depart with fear, without doing his office, was taken for an assault, *Lamb. ib.*

To strike at a man, although he were neither hurt nor hit with the blow is an assault. *Lamb. ibidem.*

Maker of an assault, battery, or other trespass upon the body of another, is to be fined.

Servant or workman, convicted by confession of two witnesses, before two Justices of Peace, of maliciously assaulting his Master, Dame, or Overseer, is to be imprisoned a year,

year, and any other corporal punishment saving life and member, 5 *Eliz. cap.* 4, & 5. *Dal.* 80. *Cro.* 84. a.

If another assault me, if I may escape with my life, it is not lawful for me to beat the other, *Dal.* 210.

An attempt is made to beat a man, his wife, father, or mother, or any of his children within age, he may lawfully use force to resist it, and may justifie the beating of the other, *Dal.* 210. Yet by opinion of *Elyot*, 12 *H.* 8. *fol.* 2. b. it is not lawful, except there be such peril as another is like to perish if there be no help, *Dal.* 184. 210.

"A man taketh away my goods which are "in my possession, I may take them again "with force, *Cro.* 65. b. *nu.* 60, 61. & 137. a. "*Dal.* 181. But I must first lay my hands on "him, and disturb him, and if he will not "leave, then I may beat him, rather then he "shall have my goods, *Dal. ibid.*

Assembly unlawfull, *vide* Unlawful assembly.

Assize of Bread and Beer.

Any Brewers or Baker, or Tipler, breaking the Assize of Bread and Ale, to be fined, 13 *R.* 2. *cap.* 8. *Lam.* 459.

Any officer taking fine for breach of the Assize of Bread and Ale, where there ought to be a corporal punishment, is to be fined, 13 *R.* 2. *cap.* 8. *Lamb.* 459.

One attainted of Felony, may be arraigned for Treason committed before or after the attainder, *Lam.* 557. 558.

One attainted upon an appeal of robbery, may be arraigned upon an appeal of robbery at anothers suit, *Lamb.* 558.

One attainted of felony, by standing mute may after be arraigned of another felony, *Lam.* 558.

One attainted of felony cannot after be arraigned for another felony, so long as the first is unpardoned, unless it be in the case before, *Lam.* 557.

After the attainder, the felons grant of goods or lands bindeth all persons, except the Land-lord, to whom they escheat, *Dal.* 303.

Indictment is, when an offence is found by the great Inquest, or other Jury of Inquiry.

Conviction is, when the offendet is found guilty by a second Jury, having put himself to trial.

Attainder is, when after such conviction judgment is given against the Offender, *Dal.* 304.

A wait-lying, *vid.* Way-laying.

Averrements.

No man shall be received to averre or speak against a record, *Lam.* 63.

Badgers and Drovers.

License to Badgers and Drovers, and Loaders of corn, must be in open Sessions, and there registred and kept by the Clerk of the Peace, 5 *El. c.* 12. *Lamb.* 610.

Offences against the Statute of Badgers and Drovers may be enquired of as well by examination of witnesses, as by presentment, 5 *El. cap.* 12.

The forfeiture due to the informer upon the Statute of Badgers and Drovers, is to be levied by *Fieri facias*, or *Capias*, awarded by the Justices of Peace. 5 *El. cap.* 12.

"Clark of the Peace must make and write all Licences made to Badgers, Laders, and Drovers, and keep a book to register the same, and the recognizance taken before the Justices of Peace, which recognizance must be, [*That they shall not do any thing contrary to the Statute* 5 Ed. 6. *c.* 14. *provided against forestallers,*] and therein write the names and Sirnames and places of the licensed, with a brief entry of the license, day, time, and place where it was granted, and bring the same to every Sessions, taking for the license xii d. for the recognizance viij d. and for registring iv d. 5 *El. cap.* 12.

Bailment.

Bailment, Mainprise, or replevin, is the giving or delivering a man out of prison be-

fore he hath satisfied the law; so by finding sureties to answer, and to be justified by the Law. *Lam.* 340, *Dal.* 312.

He that is bailed, is delivered into his sureties hands to be kept. *Cro.* 152.b.*nu.* 6. *Stam.* 65.a. *Dal.* 312.

If the sureties doubt the escape of the prisoner bailed, a Justice of Peace upon prayer may discharge the sureties, and commit the party to prison. *Dal.* 312. *Cro.* 153.a.*nn.* 13. & 157. a.

A Justice of Peace may cause the bailed to find better sureties. *Cro.* 152.b.*nu.* 4. *Dal.* 312.

It is requisite to take two Subsidy-men for bail, especially if it be for felony, or suspition thereof. *Dal.* 313.

To detain a prisoner that is bailable, is fineable. *Dal.* 313.

To bail one not bailable, is a negligent escape. *Dal.* 313.

A Justice of Peace bailing contrary to the law, or not certifying the bail and examination of the felon, is fineable by the Justices of Gaol-delivery. *Lam.* 345. 1. & 2. *P. & M.* 13. *Cro.* 167, b. *Dal.* 313.

Where one is bailable, he must offer sureties. *Dal.* 313.

For what offences a man is not bailable by a Justice of Peace by the Statute of W. 1. 3 Ed. 1. 15 Cro. 156.a. Lam. 345.

1. Abjured the Realm. *Dal.* 316.

2. Ap

2. Approver or appellour. *ibid.*
3. Appealed by an approver. *ibid.*
4. Burning a house feloniously. *ibid.*
5. Excommunication taken at the Bishops requeſt. *ibid.*
6. Felon taken with the manner. *ibid.*
7. A known thief and defamed. *ibid.*
8. Outlawed. *ibid.*
9. Priſon-breaker. *ibid.*
10. Traitor to the King himſelf. *ibid.*
11. Falſifyer of the Kings money. *Dal.* 317.
12. Counterfeiter of the ſeal. *ibid.*
13. Attainted or convicted of felony. *ib.*
14 Acceſſary to two felonies, if one principal be attainted. *Dal.* 319.
15. Death of a man, if he be principal. *ib.*
16. Taken upon proceſs of rebellion iſſuing out of Chancery or Star-chamber. *Lam.* 347. *Dal.* 320.
17. Arreſted by Proceſs, Writ, Bill, or Warrant, in an action perſonal. *ibid.*
18. Perſons convicted of felony, praying Clergy, and reprieved. *Cro.* 154. a. *nu.* 2. *Dal.* 318.

For what other offences a man is not Bailable by a Juſtice of Peace.

A Juſtice of Peace is not to bail but in cauſes which he may hear and determine. *Lamb.* 347. *Dal.* 320.

Murder, or any other homicide. *Dal.* 315.
Confeſſing the fault of manſlaughter. *ib. Lamb.* 34.
Taken in the manner for killing. *ibid.*

Known to have killed a man, *ibid.*

By the King or his Privy Counsel. *Dal.* 316.

By the absolute, not ordinary command of the Kings Justices, *ibid.*

For trespasses in the forrest. *West.*1.*cap.*15.

Confessing the felony whereof he is accused. *Cro.*152.b.

Imprisoned for surety of the peace. 23 *H.* 6.*c.*10.*Lamb.*346.

Special commandment of any Justice. 23 *H.* 6.*cap.*10.*Lam. ib.*

where Bailment is taken away by Statute, vide *Lam.*349.*Dal.*320.

For what Offences a Man is Bailable.

Taken for light suspicion. *Dal.*317.

Indicted of petty larceny, not being formerly guilty of another. *ibid.*

Charged. 1. With the receipt of thieves or felons. *Dal.*318.

2. Of commandment, force or aid in felony done; *ibid.*

3. With the trespass that toucheth not loss of life or member. *Dal.*319. *West.*1.5 (if not prohibited by some later Statute) appealed by an Approver, being no common thief, nor defamed after the death of the Approver. *Dal.* 320.

Indicted of manslaughter, and acquitted. *Lam.*347.

Acquitted of murder or manslaughter at the Kings suit, bailable during the year. 3 *H.* 7.*cap.*1.*Lam.*347.

Impriſoned by proceſs out of the Seſſions upon penal laws, not forbidding bail, bailable out of the Seſſions by two Juſtices, one being of the Quorum. *Lam.* 348. *Dal.* 319.

Accuſed of homicides which are not felony.

Acceſſary to felonies. *Dal.* 318.

If they be found of good fame, until the principal be convicted or attainted: but after the principal is attainted, he is not bailable, except he plead not guilty, or other plea. *Dal. ibid.* & 321.

Principal in burglary. *Dal. ibid.*

Principal in an Indictment of robbery. *Dal. ibid.*

Principal in an appeal of robbery. *Dal. ib.*

Attached by Seſſions proceſs upon Indictment of treſpaſs may be bailed by one Juſtice of Peace to appear at the day to anſwer the indictment, and may make his Superſedeas, *de cap. indict.* and ſo of the exigent. *Dal.* 319.

In every bailment which muſt be by two Juſtices, one of them being of the Quorum, the Juſtice muſt be preſent together at the time of bailment, who before bail taken muſt examine the priſoners, and receive the information of them that bring them: all which with the bailment they muſt put in writing, ſigned or ſubſcribed with their own hands, and certified at the next Gaol-delivery to be holden in the County. 1 & 2 *P.* & *M. c.* 13. *Dal.* 314.

The ſaid Juſtices have authority to bind all perſons that can give evidence, to appear the

next Gaol-delivery to give evidence against the party at the time of his tryal. *Dal.* 303.

Some Statutes not only take bail from the offenders thereof upon their solemn confession after judgment, but also upon the record of one or two Justices, or by examination or proof of witnesses, or other such private tryal had before them. *Lam.* 349. For the form of bailment. *Lam.* 252. The form of the Liberate. *Dal.* 396. *Lam.* 352.

Bailiffs.

Bailiff was punishable in false imprisonment, if he compel the party to go before any other Justice then he chuseth. *Lam.* 89, 94.

But now the Law is adjudged to be, that the Bailiff or Constable shall chuse the Justice. *Dal.* 59. and *Coke l.* 5. 59. b. *Fosters* Case.

As the Bailiff may not compel him that is arrested for surety of the Peace, to go before him that granted the warrant; so it is not reasonable that the Bailiff shall be drawn out of the division and limit where they both dwell. *Lam* 95. *Dal.* 171.

A Bailiff arrests a man without a warrant for the Peace, and afterwards procures one, he is punishable in false Imprisonment. *Dal.* 341. *Cro.* 149. a. *Lam.* 90.

A Bailiff Arrests one by Warrant for the Peace, the Justice will not bind the party, no action lyeth against the Bailiff. *Dal.* 1. *Lam.* 91.

Two Justices of Peace, one being of the Quorum, may give unto the Bailiffs of Franchises before they exercise their offices, the oath

oaths of 1 *El.* of ſupremacy, & 27 *El.* touching their offices, 27 *El. cap.* 12.

Bailiff taking above 4 pence for an arreſt, is to forfeit 40 l. 23 *H.* 6. *cap.* 10. and loſe treble damage to the party damnified.

Bailiff of the Hundred that executeth not a warrant againſt any defendant in the Sheriffs Court, ſhall loſe 40 s. 11 *H.* 7. *c.* 15. *Vide plus* Warrants.

Bakers, *vide* Aſſiſe of Bread.

Barettor.

A common Barettor is he, who is either a common mover, ſtirrer up, or maintainer of ſuits in law in any Court, or quarrels in the country. *Dal.* 36. *Lam.* 440. *Cro.* 84. a. and is to be bound to his good behaviour, and impriſoned. *Lam.* 440. *Vide plus Dal.* 36. *Coke* 8. 36.

Bargain and Sale, *vid.* Inrolment.

Bark of Trees, *vide* Leather.

Baſtardy.

Two Juſtices of Peace, one being of the Quorum, in or next to the Pariſh, where a baſtard left to the charge of the Pariſh, or likely to be chargeable, is born, are to take order for the relief of the Pariſh, keeping of the child, and puniſhment of the reputed father and mother. 18 *El.* 3, 7 *Jac. c.* 4. *Dal.* 37.

The reputed father and mother not performing the order ſet down by ſuch Juſt. the delinquent is to be ſent to the Gaol without bail, except they put in ſureties to perform the order, or appear at the next general Seſſions of the Peace. *Dal.* 38.

"If the Justices of the Peace do not agree upon an order, it is to be referred to the Bench. *Dal.* 25.

"*Quadraginta septimane sunt legitimum tempus mulieribus constitutum.* Coke Instit. 123. Dal. 38.

"The mother may be examined upon oath concerning the reputed father, the time and other circumstances. *Dal.* 37.

"By 7 *Jac. cap.* 4. the mother is to be committed to the house of correction for a year; but not till after delivery, and the child living. *Dal.* 38.

"If she offend the second time, she is to be committed to the house of correction, and there remain till she find sureties for her good behaviour, and not to offend again. 7 *Jac. c.* 4 *Dal.* 38.

All Justices of Peace in their several limits, and in their Quarter Sessions, may do all things concerning the Statute 18 *El.* for Bastardy, which is limited to the Justices of Peace in several counties. 3 *Car. cap.* 4.

Reputed father to be bound to the Good Behaviour till the child be born. *Dal.* 37.

Vide plus House of Correction.

If the putative father shall either before or after the birth of the child, by practice of any other, convey himself away, or cause the mother to run away or leave her child, such may be bound over to the next Gaol-delivery or Quarter Sessions. *Dal.* 37.

The putative fathers of Bastard children, leaving their children upon the parish, the Church-

Churchwardens and Overſeers for the Poor of the Pariſh where the child is born, may ſeiſe and take ſo much of the goods, rents, and profits of the lands of ſuch reputed father or mother as ſhall be ordered by two Juſtices of the Peace, for, and towards diſcharge of the Pariſh, for providing for ſuch Baſtard, and by Order of Seſſions, may ſell the ſaid goods, or ſo much thereof as the Court ſhall think fit, and ſo much alſo of the rents and profits of the lands for the ſame purpoſes. 14 *Car.* 2. *cap.* 12.

Caſes and Reſolutions upon the Statutes of 18 *Eliz. cap.* 3. touching Baſtard-children. And upon 43 *Eliz. cap.* 2. concerning the poor, and proviſion for them.

Hamonds Caſe, *Mic.* 3 *Car.* Kings Bench.

Baſtard.

Hamond having got a child, the examination thereof was referred to the two next Juſtices according to the Statute: upon which the Juſtices make an order, which *Hamond* refuſed to perform; thereupon they cauſe him to enter into bond to appear at next Seſſions, where he appeared, the Juſtices there made another order; and becauſe he refuſed to per-

form this, they committed him to priſon. Reſolved, the Impriſonment was illegal, being not warranted by the Statute, but they ought to have proceeded againſt him upon his bond.

By *Hide* Chief Juſtice, the Juſtices ought not to commit for not performing their order of Quarter-Seſſions, where they alter the former order made by the Juſtices, who had firſt the examination; for by the ſecond order the firſt was made null.

Concerning providing for Baſtard-children.

Smiths Caſe, *Mic. 6. Car. R. B. R.*

IT appeared by proof before two Juſtices, that *Smith* was the reputed father of a baſtard-child, and the Juſtices made an order for maintenance of the child, and for diſcharge of the Pariſh according to Law; and afterwards committed him for not performing the order: Reſolved the commitment was void, and that the Juſtices ſhould have taken bond of him to appear at next Seſſions.

The Caſe was further:

Sir *Henry Pool* and Doctor *Standard* being the two next Juſtices, did examine this matter, upon which it then appeared, that one *Feild* was the reputed father, and made their order againſt *Feild*, that he ſhould maintain the child, diſcharge the Pariſh, and enter into bond for his appearance at the next Quarter-Seſſions, and to abide their order there made: He refuſed to enter into bond, but appeared at

the

the Seſſions, and there ſhewed that *Smith* was the reputed father; the former order was certified, but the Juſtices did nothing upon it, but granted new reference unto Dr. *Standard* and Maſter *Gregory*, Sir *Henry Pool* being gone out of the Country: And they made the laſt order contrary to the former; and by this they charged *Smith* as the reputed father. Reſ. that the Juſtices at their next quarter-Seſſions ought to have made a final order, or to have affirmed or diſallowed the former order. And then afterwards have granted a reference to the ſame next Juſtices which made the firſt order, to conſider better of it, and of the proof; and this had been according to Law.

Reſolved, That after an appeal to the Seſſions, and the Juſtices there do repeal the firſt order, the matter then is as *res integra* before them, and they may then grant a reference to the two next Juſtices.

Nota. That the Recognizance ought to be in the diſjunctive, *viz.* To perform the order by them made, or to appear at the next quarter-Seſſions, and to abide the order there.

Nota. One Juſtice of Peace by his warrant may commit, but the *Mittimus* being ſhewed, and it not purſuing the Statute, and the Recognizance not being in the diſjunctive, *Smyth* was bailed to appear at next Seſſions, &c.

Reſol. The reference by the Juſtices at the Seſſions, before they had allowed or diſallowed the firſt order was illegal.

Bowber againſt *Panter*, *Paſch.* 8 *Car. B. R.*

Reſolved, That upon the Stat. of 18 *El. c.* 3. that the Juſtices of Peace at their Seſſions, not the Juſtices of Aſſiſes, have power to meddle with Baſtard-children but upon an appeal and ſetling. But this is to be done by the two next Juſtices.

At *Salop* Aſſiſes, 19 *Martii* 7 *Car.* 1631.

This queſtion was propounded to Sir *William Jones* Knight, Juſtice of Aſſiſe, by a Juſtice of Peace, *viz.* upon the Stat. of 18 *Eliz. c.* 3. & 7 *Jac. c.* 4. touching baſtard-children, by the firſt ſtatute puniſhment is inflicted; and by the ſecond, if ſhe offend the ſecond time, ſhe is to be ſent to the houſe of Correction, &c. Upon this the queſtion was; One had a baſtard-child, but ſhe was not queſtioned for it, no proceedings being had againſt her upon the Stat. of 18 *El.* 3. Afterwards ſhe had a ſecond baſtard; whether ſhe ſhall be proceeded againſt upon the Stat. of 7 *Jac.* 4. for the ſecond offence, or whether the ſecond offence ſhall not be taken for the firſt.

Reſol. She ſhall not be puniſhed upon the Stat. of 7 *Jac.* as for her ſecond offence, unleſs ſhe had been before queſtioned and puniſhed for her firſt offence; but this ſecond offence ſhall be now taken to be as her firſt offence, and ſo is to be puniſhed for the ſame according to Law.

Town-

Town of *Tewksbury* againſt the Town of *Twining* at Aſſiſes, 9 *Julii* 8 *Caroli* 1632.

A ſervant maid dwelling in *Twyning* was got with child, and being near her time, was conveyed by practice into an out-houſe in *Tewksbury* where the child was born; afterward *Twyning* gave her relief, and the Miniſter of *Twyning* chriſtened her child, and as ſoon as ſhe was able to remove, they of *Twyning* gave her and her child relief for two years; afterwards the mother being ſick, they ſent her away with her child to *Longden* in *Comwigorn.* where the mother died: then they of *Longden* ſent the child unto *Twyning*, and they of *Twyning* ſent the child (being under the age of three years) unto *Tewksbury*, and they ſent it back to *Twyning*.

Reſolv. The child regularly is to be kept where it was born, if no practice was uſed to have it born there, but if by practice, then it is to be kept by the Pariſh where ſhe did dwell, and where ſhe was got with child, and which uſed practice to have the child born in another Pariſh, which is the Pariſh of *Twyning*, and ſo was ordered: referred to Juſtices of Peace to examine the practice.

Ad Aſſizas, 20 *Julii* 13 *Caroli* 1637. at *Glouc'*.

Anne Tarling having a Baſtard-child, upon complaint

complaint made thereof to the Sessions, it was referred to the next Justices to examine and order; who did make an order against *John Wood* to be the reputed father, and ordered him to allow 1 s. 4 d. weekly, &c. *Wood* appeals to the Sessions, where the said order was disallowed, and one *William Cole* charged to be reputed father: *Jones* Justice without examining the cause, confirmed the last order made at Sessions, which was final, and no appeal to be admitted against it.

And in a *Lincolnshire* cause one *Pridgeon* being questioned and found by two Justices to be the reputed father of a Bastard-child, they made an order against him for allowance, &c.

Afterwards he appeals to the Sessions, where the said *Pridgeon* was discharged, and another was found to be the reputed father, and an order made against him.

Afterwards at another Sessions of the Peace, upon a re-examination another order was made against the last order, whereby *Pridgeon* was found again to be the reputed father, and so ordered to maintain the child. *Pridgeon* appeals to the Judges of the Kings-Bench. Resol. that *Pridgeon* shall be freed from the second order at Sessions, it being illegal. And the first order made by the Quarter-Sessions upon appeal to them to stand in force, and no appeal to be admitted against it, the same being final, and not to be altered by the Judges of Assise. And so it was resolved by the Judges of the Kings Bench.

And

And ſo upon the Stat. 43 *Eliz. cap.* 4. for charitable uſes, if the Commiſſions make an order or degree in the Caſe, and upon appeal to the Lord Chancellor or Lord Keeper, and exceptions put in, if upon that the decree made by the Commiſſioners, be confirmed by the Lord Chancellor or Lord Keeper, this decree is by this made to be final, and no ſubſequent appeal to be admitted.

Bath and Buxton, *vide* Licence.

Battery lawful, *vide* Riot, Aſſault, Breach of the Peace.

Bawdery.

Bawdery is not meerly a ſpiritual offence, but mixt, and ſoundeth ſomewhat againſt the Peace, *Lam.* 119. *Dal.* 193.

A Conſtable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report are gone to a ſuſpected houſe in the night, may take company with him, and if he find them ſo, he may carry them to priſon, or to a Juſtice, to be bound to their good behaviour, *Dal.* 193.

Reſorters to bawdy-houſes are to be bound to their good behaviour, *Dal. ibid.*

Keepers of bawdy-houſes are to be bound to their good behaviour, *Dal. ibid.*

Beads,

Bonds, *vide* Recognizance.

Beads, *vide* Agnus Dei.

Bear-wards, *vide* Licence.

Beer and Beer-brewers, *vide* Victuallers.

Beggers, *vide* Rogues and poor people.

Blockwood, *vide* Logwood.

Bloudshed.

Presentment of bloodshed found in the Sheriffs Turn, and sent to the Justices of Peace, can neither be traversed before the Justices of Peace, nor at the Sheriffs Turn, *Lam.* 543.

Bowyers, *vide* Archery.

Brass and Pewter.

Brazier nor Pewterer may exchange or sell any Brass or Pewter, but in open Market or Fair, or in his house, unless upon request of the buyer, on pain of ten pounds for each offence, 19 *H.*7. *c.*6. 4 *H.*8.7. and inquirable at the Sessions, *Lam.*621.

All working hollow wares of other lay metal, then according to the assize of the lay metal wrought in *London*, or not setting their seal on, lose the wares. Searchers of Brass and Pewter must be appointed by the Justices of Peace at Michaelmas Sessions, 19 *H.*7. *c.*6. 4 *H.*8. *c.*7. *Lam.*621.

Breach of the Peace, or good behaviour.

What ſhall be accounted a breach of the Peace.

To threaten one to his face to beat him, at whoſe ſuit he was bound, *Lam.* 115. *Dal.* 181. *Cro.* 136. b. or in his abſence, if he after lie in wait to do it, *ibid.*

To command or procure one to do any unlawful act againſt the Peace, if it after be done.

Menacings, affraies, aſſaults, injurious and violent handlings and entreatings, battery, and malicious ſtrikings, impriſonment without warrant, to thruſt one into the water to endanger him, to raviſh a woman, to commit felony or treaſon, *Dal.* 181. *Lam.* 127.

A Farmer, Tenant, or Commoner, by threats or blows to repulſe violence offered his Land-lord or Mayor, *Lam.* 129. *Dal.* 185.

What act ſoever is a breach of the Peace, the doing thereof doth beget a forfeiture of the recognizance, made for keeping of the Peace, *Dal.* 181. *Lam.* 114.

" A Juſtice of Peace certifieth into the K. " Bench, that ſuch a man broke the Peace in " his preſence; the party ſhall be put to his " fine without any traverſe, *Cro.* 132. a.

What not.

In his abſence to threaten to beat him, at whoſe ſuit he was bound to the Peace, *Dal.* 181.

Threats

Threats or moderate correction of the Master, Schoolmaster, Gaoler, to those under their command, of Parents to the child within age, of the Lord to his villain, *Lam.* 127. *Dal.* 183.

To beat with rods a kinsman that is mad, to the end to reclaim him, *Dal. ibid. Lam.* 128.

Constable, Officer, or any of their company to strike any for better execution of their office, *Dal.* 180. *Lam.* 128. By threats or blows to repulse violence offered to ones own person, wife, father, mother, child, master, *Dal.* 184.

Preservation of his own goods, *Ibid. Lam.* 129. and *Crom.* 136. b. affirm that the Master may beat him that doth assault or beat his servant: but *Dalton* maketh a quære of it, and that a Master may only without sword or staff defend him, *Dal.* 185. *Pax Reg.* 5.

To kill or hurt one at fence, play, tilt, tournament, or barriers in the Kings presence, or by his command, *Dal.* 184. *Lam.* 129.

To take ones goods wrongfully, if not from his person, *Lam.* 130. *Dal.* 186. 210. is no forfeiture of his Recognizance, *Cro.* 65. b. *nu.* 58. 8. 137. a.

So to take anothers Ward, *Dal.* 186. *Lam. ibid.* To disseise another of his Ward, *Dal. ibid.*

To trespas in another's corn or glass, *ibid.*

Trespas lieth at the Common Law, for threatning to beat one.

Vide plus Forfeiture.

It is no breach of the Peace for a private man to strike or wound another in defence of his

his own perſon from beating, wounding, or killing: but if he may eſcape with his life, without being wounded, maimed, or hurt, it is not lawful, except he firſt flie as far as he can, *Dal.* 184. *Cro.* 137. a.

To take a dog of any kind, or other thing of pleaſure from the perſon of another, or in his preſence with force or violence, amounteth to a breach of the Peace, *Dal.* 168.

Brewers, *vide* Victuallers.

Bridges.

"By common right Bridges ſhould be "amended by the whole County, for it is for "the common eaſe of the County, *Cro.* 187. "b. yet if any have a fiſhing or profit in "that river, they are chargeable, *Cro.* 186. b.

A man voluntarily maketh or amendeth a Bridge; he is not compellable to do the ſame again, unleſs he and his anceſtors have uſed ſo to do time out of mind, *Dal.* 41. *Cro.* 186. a.

"Where a man and his anceſtors have uſed "time out of mind to repair a Bridge, the "King cannot acquit him, *Dal.* 41.

It being not known who, or what land is chargeable with the repairing of a decaied Bridge, four Juſtices, one being of the Quorum, may tax the Inhabitants, and make "Collectors and Overſeers for repiring of it, "and appoint Surveyors, and exact an ac- "compt of them: and if they refuſe ſo to "do, the ſaid Juſtices may make out Proceſs "againſt them, by Attachments, Precepts, or

"Warrants

" Warrants under their seals, returnable at
" the Quarter Sessions, and may allow rea-
" sonable costs to the Surveyors and Col-
" lectors, 22 H. 8. *cap.* 5. *Dal.* 40.

" A man and his ancestors, or a Corporati-
" on time out of mind, used to make a
" Bridge, though they did it freely at the first
" and not of right, it shall conclude the heir
" and successors, *Dal.* 41. *Cro.* 186. a. b. Pur
" *of Stokes case.*

Justices of Peace where a decaied Bridge is, may award Process into the County where the party or land chargeable is? *Dal.* 40.

A Bridge lying within a Corporation, the Hundred shall not be charged therewith, *& è converso*, *Dal.* 40, 41. *Cro.* 187. b.

A Bridge lying in two several Counties, either must repair his part, *Dal.* 40. *Cro.* 187. b.

" A common Bridge lying within a Fran-
" chise, they must repair it, *Cro.* 187. b.
Dal. 40.

" A man is to repair some arches at the
" end of a Bridge: if the Buttresses be decai-
" ed, he is to follow the course of the water,
" and to repair the high-way without leave
" of the owner of the land, and lay stones, &c.
" necessary, upon the adjoyning land of ano-
" ther, *Cro.* 186. b. *Dal.* 42.

" He that is bound to repair a Bridge,
" must maintain the way at each end, *Cro.*
186. b.

Buckſtalls.

One ſuſpected to have offended againſt the ſtatute, 19 *H.*7. *c.*11. of deer-hales and buck-ſtalls, &c. is to be examined by two Juſtices at Quarter Seſſions, and being convicted by his own examination only, is to be impriſoned till he find ſurety for the forfeiture, 19 *H.*7. *c.*12. *Lam.* 535, 630. the tenth part whereof the Juſtices examining ſhall have, *ibid.*

Buggery.

The ſin of Buggery with a man or beaſt is felony, 25 *H.*8. *c.*6. 5 *El.* c. 17. *Lam.* 227, 256, 421.

Bull from *Rome*, *vid.* Treaſons.

Burglary.

Burglary is when one or more in the night-time do break a dwelling-houſe, or a Church, or the wals or gates of a City or walled Town, with an intent to do felony, albeit they carry away nothing, *Dal.*256. *Lam.* 258, 423. *Cro* 31. a. *nu.* 1.

The night is from ſun-ſetting to ſun-riſing, *ibid. Lam.*259, 423, 424. *Dal.* 256.

What act ſhall make a Burglary without entring into the houſe.

Putting back the leaf of a window, *Dal. ibid. Lam.* 262.

Drawing the latch of a door, *Dal. ibid. Cro.* 33. b. *Lamb. ibid.*

Turning

Turning the key being on the inside, *Cro.* 31. b. *Dal. ibid. Lamb.* 262.

Breaking the glass-window, and hooking out of Goods, *Lam. ibid.*

Making a hole in the wall, and shooting one within the house, *Dal.* 256. *Lam.* 261. *Cro.* 31. b. *nu.* 7.

The door being open, to put his hand over the threshold, and discharge a dag at one within, *Dal. ibid. Cro.* 32. a. *nu.* 11. *Lam.* 262.

They within cast out their mony for fear, and they without carry it away, *Cro.* 31. b. *nu.* 9. *Lamb.* 261, 262. *Dal.* 257.

Without breaking the house.

To set foot over the threshold with a felonious intent, *Dal.* 257. *Cro.* 32. a. *nu.* 13.

To come down by a Chimney, *ibid.*

To come in by help of a key, *Cro.* 31. a. *nu.* 8. *Lam.* 262. *Dal.* 257.

To enter, the doors being open, and the Owner flying to his Chamber, to shove at the Chamber door. *Dal. ibid. Lam.* 262. *Cro.* 32. b. *nu.* 25.

If pretending to be robbed, by help of the Constable for search they rob the Owner, *ib. Lam.* 263. *Dal.* 257. *Cro.* 32. b. *nu.* 24.

If upon conspiracy with a servant, the servant openeth the door, and the thief entreth, *Dal.* 257.

One entring, and the rest standing about the house, or not far off, *ibid. Lam.* 264.

To enter under the threshold.

What

What place makes Burglary.

Publick, as Church, wals or gates of a City or Town walled: Private, as a dwelling-house, if any be within, *Dal.* 257. *Cro.* 33. a. *Lam.* 260, 261.

The family for part of the night is abroad, and in the interim the house is robbed, *Dal.* 258. *Cro.* 33. b. *nu.* 40.

A man hath two dwelling houses, and dwelleth sometimes at the one, sometimes at the other, and hath servants at both, and the servants are abroad, in the night the house is broken, *ibid. Cr.* 33. b. *nu.* 40. *Dal. ibid.*

To break a Chamber in a Colledge or Inn of Court, though no body is in the Chamber, *Dal.* 258. *Lam.* 261. *Cro.* 33. a. *nu.* 29.

Breaking a barn or stable near to a dwelling house, to the intent to steal, *Dal. ibid. Cro.* 32. *Lam.* 261.

Robbing a back house, *Dal. ibid.*

To enter to ravish a woman. Quære *Dal.* 259.

The Host of an Inne breaking into his Guests Chamber to rob him, *Dal.* 258.

What not.

Entring onely with intent to beat, *Dal.* 259. *Lam.* 264.

Breaking, and departing without entring, *Lam.* 262. but it is felony, *ib. Lam.* 261. it is not burglary in one under 14 years of age, *Dal.* 259.

Nor in poor persons, that upon hunger break

break and ſteal under the value of 12 pence, *Dal.* 269.

Nor in natural fools, or *non compos mentis*, *ibid.*

Burning of houſes.

Malicious burning of houſes, being dwelling houſes, or a barn with corn in it, is felony, *Dal.* 273. *Lam.* 266, 424. *Cro.* 3 r. 2. *mi.* 3.

Burning of an empty Barn in the night feloniouſly, if it be nigh a dwelling houſe, *Dal.* 274. *Lam. ibid.*

All burning that proceedeth of a former burning that was malicious, is felony, *Lam.* 266.

"One intending to burn anothers houſe, "fireth it, and part onely is burned and "quenched, it is felony, *Dal.* 274.

"One ſhooteth unlawfully in a hand-gun, "and the fire ſetteth another mans houſe on "fire, and burneth it down, it is felony, *Dal.* 374.

Burning of a ſtack of Corn feloniouſly, *Dal.* 274.

Butchers.

Butcher gaſhing a hide whereby it is hurt, loſeth 20 pence, 1 *Jac. c.* 22. *Lam.* 462.

Butchers watering any hides, except in *June*, *July*, or *Auguſt*, loſe 3 ſhill. 4 d. a hide, *ibid.*

Butcher, or any other killing calves, to ſell under five weeks old, loſeth 6 ſhill. 8 pence a calf, *Lam.* 453.

Or killing any weanling, Bullock, Steer, or Heifer, under the age of two years, *Lam.* 453. 24 *H.* 8. *c.* 9. *vide* Victuallers.

Butter and Cheese.

Offences in weighing, packing, and making of Butter, and the Firkins or Casks are enquirable, and to be heard and determined in the Sessions of the Peace for the several Counties, or in the Courts of Record of the several Cities and Towns Corporate, or Liberty where the offence shall be committed, and the penalties there to be recovered, by Debt, Indictment, or Information, one half of the Forfeiture to the use of the poor inhabiting within the Parish where the offence is committed, the other (besides double Costs) to the prosecutor: so as such Suit be begun within four moneths after sale of such Butter, 21 *Car.* 2. *cap.* 26. See more of this, *Victuallers.*

Butts.

Inhabitants of a Town not continuing their Butts as they ought, are to lose for every three moneths 20 shill. 33 *H.* 8. *c.* 9. *Lam.* 481.

Buying and selling, *vide* Cattel.

Calves and Kine.

Any killing Calves to sell under five weeks old, lose for every one, 6 shillings 8 pence, 1 *Jac.* 22.

Any feeding in his own ground ſit ſe
Milch-Kine, wherein none hath commo
above 120 Sheep more then for his own pro
viſion, muſt raiſe one Calf for every 60 Shee
or loſe 20 ſhillings a moneth for each Ca
and keep one milch-Cow for every ten Oxe
Runts, &c. ſo fed above twenty. And f
every two milch-Kine muſt rear one Ca
yearly, except it die, upon the like pai
2 & 3 P. & M. c. 3. 13 El. c. 25. 7 Jac.
8. Lam. 453.

Offences againſt this ſtatute are determi
nable at the Quarter Seſſions.

Captains.

Any Muſter-maſters taking reward f
diſcharging any from ſervice, loſe ten tim
ſo much, or 20 li. 2 E. 6. c. 2. Lam. 482, 48

Captains, or others, having the charge
men for war, keeping back part of their p
loſe to their Souldier treble ſo much as is
paid: or for gain licenſing any to depart,
ten times the gain, 2 E. 6. ibid.

Vide plus Travelling.

Carriages.

The care and ordering of Carriages for
King and his Service in the progreſſes or
moval, are referred much to the power
appointment of two Juſtices of the Peace,
the ſetting prizes upon the Proviſions for
Majeſties Servants upon that occaſion, 13
2. cap. 8.

And the Carriages of Timber, ordin

and other necessaries for the Navy, and the directing and ordering the same, which see in the said Acts, being to continue in force untill the end of the first Session of the next Parliament, and no longer, 14 *Car.* 2. *cap.* 30.

Castle, *vide* Felony.

Cattel.

Buyer of live Oxen, Runts, Steers, Kine, Calves, Sheep, Lambs, Kids and Goats, if he sell them within five weeks after, loseth the double, 5 *E.* 6. *c.* 14. *Lam.* 452. *Vide* Badgers.

Certificate.

Recognizance and releafe of the Peace, both are to be certified at the next Quarter Sessions, 3 *H.* 7. *cap.* 1. but no pain by the Statute to the Justice if he do not, *Lam.* 111. *Dal.* 177. *Cib.* 139. a. *nu.* 11.

One that is bound to the Peace, maketh default at the day of his appearance, the Recognizance with the record of the default of his appearance must be certified into the Exchequer, Kings Bench, or Chancery: So if it be presented that he hath broken the Peace, *Lam.* 589.

Sheriff must certifie to the Justices at the next Sessions, indictments lawfully found and taken at his turn or law-day, 1 *E.* 4. *c.* 2. The penalty is 40 pound.

Clark of the Crown must certifie the

names of any that have been out-lawed of felony, or Clarks convicted or attainted upon the letter of a Justice of Peace, or lose 40 shil. 34 H. 8. c. 14.

Transcript of every attainder, outlawry, or conviction had before the Justice of Peace must be certified in the Kings Bench by the Clark of the Peace within 40 daies after the attainder, if it be in Term; if not, within 10 daies after the beginning of the next Term, on pain of 40 shillings, 34 H. 8. c. 14. Clark of the Peace must certifie to the Ordinary a transcript of the Clarks convicted or attainted, 34 H. 8. cap. 14. Quære, because by 18 El. c. 6. no delivery to the Ordinary, Lam. 588.

Custos Rotulorum of the County where one is attainted as principal of felony, upon writing of the Justices of the Gaol delivery or Oyer and Terminer of another County where one is accessary unto the other, must certifie what is done with the principal, 2 Ed. 6. c. 24. Lam. 588, 589.

Where the Justices are to receive indictments, and no power to proceed upon them, they must certifie them into the Kings Bench without Certiorari, Lam. 589.

Abjuration of a sedituous sectary made in open Quarter Sessions, must be certified at the next Assizes unto the Justice of Assize, 35 El. c. 1. Lam. 590.

Presentment that Goods and Chattels of one attainted of felony be in others hands, is to be certified in the Kings Bench, Exchequer, Lam. 590.

Recognizan

Recognizance of an Alehouse-keeper must be certified at the next Quarter Sessions after the taking, or the Justice loseth five Marks, 5 E. 6. c. 25.

Certificates of dockets of Purveyors, *vide* Purveyors.

Certificate of transcripts of Records of the Sessions into the Kings Bench, *vide* Clarks of the Peace.

Certificate of Riots, *vide* Riots.

Certificate of Certiorari, *vide* Certiorari.

Certificate of Examinations, *vide* Examinations.

Vide plus Recognizance.

Certiorari is to remove indictments or other Records to be fully heard, where the Justices cannot proceed; or be reversed, where they have proceeded erroneously, *Iam.* 591.

A Certiorari issueth out of the Chancery, & the Records are removed thither, and sent thither by Mittimus to any other Court, *Ia.* 591.

Certiorari to remove matters of the Crown, need not contain the cause of the removing, *Pa. b.* 514.

Certiorari into the Chancery, hath *in Cancellaria*, into the Kings Bench, *Nobis mittatis*, *Dal.* 416. *Cro.* 132. a.

Certiorari may command either the Record it self, or the tenour of the Record, *Cro.* 131. b, *Iam.* 515. *Dal.* 416.

Certiorari is to be directed to the Justices, *Iam.* 515.

Justices of Peace ought upon Certiorari, to remove the Record, though the party that

brought the Certior. ſueth not after to have it removed, *Dal.* 416. *Cr.* 132. b. & 133. a. *La.* 516.

An Indictment may be removed upon a Certiorari, bearing date before the Indictment was taken, *Dal.* 417. *Cro.* 132. b. 164. 167. b. *Lam.* 510.

A certificate of a Certiorari ought not to omit that which did authorize the Juſt. to make the record, neither ought they to certify more then the Certiorari warranteth them, *La.* 516.

If the Certiorari vary from the Record, the Juſtices need not to certify, *Cro.* 132. b. *Dal.* 416.

A Certiorari is to ſend up the Indictment of *A.* in which others are jointly indicted, the Juſtices need not make certificate of any but of *A.* only, *Cro.* 232. a. *Lam.* 517. *Dal.* 416.

A Juſtice may without Certiorari ſend into the Kings Bench a Recognizance of the Peace, an Indictment found before, or a force recorded before him, *Dal.* 416. *Cro.* 132. b. 133. but not without Certiorari, if he be put out, *ibid.*

No bills of Indictment, riot, forcible entry, aſſault, or battery found at the Quarter Seſſions, ſhall be removed by Certiorari, unleſs it be delivered in open Quarter Seſſions, and the indicted bound in ten pound to the proſecutor, with ſuch ſureties as the Juſtices ſhall allow, to pay within one month after the conviction of the indicted to the proſecutor ſuch coſts and damages as the ſaid Juſtices ſhall allow, otherwiſe the Juſtices to proceed to trial, 21 *Jac. c.* 8. *Dal.* 219, 220.

Vide

Vide plus, Certificate and Juſtices of Peace.

Challenge.

One indicted of Felony, may challenge as many as he will, ſhewing cauſe: but without cauſe he may not challenge above twenty. 22 *H.*8. *c.*14. *Lam.* 554. 28 *H.*8. *c.*1.

What ſhall be a good Challenge of a Juror.

That he was an Indictor of him, *Lam.* 554.

That he hath no Lands to the clear yearly value of 40 ſhill. *Lam.* 554.

In Cities and Boroughs, that he hath no goods moveables worth 40 pound, *Lam. ibid.*

That he is not *Probus & Legalis*, as, if he be attainted of Felony, Forgery, Perjury, &c. *Lam. ibid.*

Champerty is, when one for hope of having part of the thing in variance, moveth or cauſeth the ſuit to be moved at his own coſt, and for it he is to be fined, 33 *E. c.*1. *Lam.* 441.

Chance-medly, *vide* Homicide.

Chaſtiſement, *vide* Correction.

Church and Church-yard.

Maliciouſly to ſtrike with a weapon in the Church or Church-yard or to draw a weapon to that end, is loſs of one of his ears, or having no ears, to be marked on his cheek with the letter F, 5 *Ed*, 6. 4. *Lam.* 419.

To keep Fair or Market in the Church-yard, *ibid. Stat. Wint.* 13 *Ed.* 1. *c.* 6. *Lam.* 419.

Conviction of any upon the ſtat. 5 *Ed.* 6. *c.* 4. may be by the Juſtices of Peace at their Quarter Seſſions, by verdict, teſtimony of two, or by confeſſion, 5 *Ed.* 6. *c.* 4.

Execution of the forfeiture upon the ſtat. of ſtriking in Church-yards, to be awarded by the Juſtices of Peace before whom the conviction, 5 *E.* 6. *c.* 4.

Church-wardens.

Church-wardens and Conſtables, or one of them, or where none be, the Conſtable of the Hundred, muſt once every year preſent at the Quarter Seſſions, the monethly abſence from Church of Popiſh Recuſants, and the names of every of their children of nine years old & above, abiding with their Parents, and as near as they can the age of their children, and the names of ſuch Recuſants ſervants, 3 *Jac.* 4. *Lam.* 437. penalty 20 ſhil. *Vide* Recuſants.

Churchwardens are to gather for the priſoners. *Vide* Priſoners.

Churchwardens and Overſeers of the poor are yearly to make accompt to two Juſtices, whereof one ought to be of the Quorum, *viz.*

1 Of all ſums received by them rated or not received.

2 Of ſuch ſtocks as they, or any of their poor have in their hands, 43 *El. c.* 2.

3 What apprentices they have put out.

4 What poor they have ſet to work or relieved.

5 What

5 What poor they have ſuffered to wander and beg.

6 If they have monethly met to take order for the poor.

7 If they have aſſeſſed the Inhabitants and Occupiers of Lands, &c. in their Pariſh, and ſuch as are of ability, with indifferency.

8 If they have endeavoured to levy and gather ſuch aſſeſſements, *Dal.* 96. Defaults in any the premiſſes is 20 ſhil. *ibid.*

"Two ſuch Juſtices may make their warrants both to the preſent and ſubſequent "Church-wardens and Overſeers to levy all "ſums and arrearages of every one that ſhall "refuſe to contribute according to the aſſeſſement. And in default of diſtreſs commit them to the Gaol till payment be made, *Dal.* 95.

Churchwardens and Overſeers refuſing to make a true accompt to the Juſtices of all ſuch ſums of money, or denying to pay the arrearages, to be committed to the Gaol without bail till accompt made, and the arrearages paid to the new Overſeers, *Dal.* 96.

Churchwardens and Conſtables yearly upon Tueſday or Wedneſday in Eaſter week, muſt call together the Pariſhioners.

And firſt chuſe Surveyors for the highwaies, *Dal.* 67. 3 *P. & M. c.* 8.

2 Appoint ſix daies for that purpoſe, to be before Midſummer next following, *Dal. ibid.*

3 Give notice of the ſaid ſix daies openly in the Church, the Sunday after Eaſter, *Dal. ibid.*

Clark of the Peace.

Clark of the Peace must be present at the Sessions, to read indictments, and inrol the acts of the Sessions, as also to draw Process, *Lam.* 393.

Clark of the Peace must record Proclamations for the rates of Servants wages, and inroll the discharge of apprentices, 5 *El. c.* 4. *ibid.*

He must keep the counterpane of the Indenture of armour, 4 & 5 *P. & M. c.* 2. Repealed by 1 *Jac.* 25. *circa finem.*

And the books of licenses given to Badgers and Loaders of corn, 5 *El. c.* 12. *Lam.* 393.

And of those that are licensed to shoot in guns, 2 *Ed.* 6. *c.* 14.

He must certifie into the Kings Bench transcripts of indictments, outlawries, attainders, and convictions had before the Justices of Peace within the time limited, under the pain of 40 shill. 34 *H.* 8. *c.* 14. *Lam.* 588, & 593.

Recognizance of the Peace is brought in to the *Custos Rotulorum*, and if the party grieved will not sue it, the Clark of the Peace may call upon it for the King, *Lam* 394. 2 *H.* 7. *c.* 1.

The office of the Clark of the Peace is in the gift of the *Custos Rotulorum*, 37 *H.* 8. *c.* 1. *Lam.* 394.

What Records the Clark of the Peace is bound to certifie.

Vide Certificate.

The

The Clark of the Peace his Fees.
Vide Fees.

He muſt record preſentments for not coming to Church, and the certificate of not taking the oath of Allegeance, 3 *Jac. cap.* 4. *Lam.* 393.

"Clark of the Peace is Clark to the Juſtices, as the Statute 12 *R.* 2. *cap.* 10. nameth "him, and not Clark to the *Cuſtos Rotulorum* "only, *Lam.* 394.

"Clark of the Peace may exerciſe his place "by himſelf, or by his deputy ſufficiently "inſtructed in the Law, and admitted by the "*Cuſtos Rotulorum*, *Lam. ibid.*

Clark of a Juſtice his Fees, *vide* Fees.

Clark of the Crown, what Records he ought to certifie, *vide* Certificate.

Clark of the Market.

Clark of the Market taking mony to diſpence with faults, riding with more then ſix horſes, tarrying longer then is neceſſary, loſeth for the firſt offence 100 ſhillings, for the ſecond 10 pound, for the third 20 pound, 13 *R.* 2. *c.* 4. Clark of the Market may take no mony for any bills. He ought to ſeal no Buſhel but once. After the firſt ſealing to take any thing is extortion, *Dal.* 150.

See the Stat. 12 *Car. cap.* 19.

Clergy and Sanctuary.

One Justice of Peace may take out of the Sanctuary him that is abjured thither, being indited of any offence punishable by death done after he is become a Sanctuary-man, and may commit him to the Gaol in the County where the inditement is found, till he be tried, 22 *H.*8. *c.* 14.

In what offences Clergy is not allowable.

Breaking a house by day, and taking away any thing to the value of 5 shillings, 39 *El.* c. 15. *Lam.* 564, 565.

Conjurers or Witches, their aiders and counsellers, 5 *El.c.*16. *Lam.*564.1. but 1 *Jac.* c. 12. repealeth 5 *El.c.*16.

Receivers or aiders of Seminary Priests or Jesuits, 27 *El.c.*2. *Lam.*563.

Conspiring to burn, take, or raze any Castle or Bulwark of the Kings, 14 *El.* c. 1.

Rape or ravishment, } 18 *El.c.*6. *Lam.*564.
Burglary, }

Carnally abusing a woman within the age of ten years, *Lam.* 564. 18 *El.* c. 6.

Principal or accessary before the fact of taking away of a maid, widow or wife, that hath lands or substance, &c. 3 *H.*7. *ca.* 2. & 39 *El.c.*9. *Lam. ibid.*

Buggery, 5 *El.* c. 17. *Lam.* 564.

Murderer, *Lam. ibid.*

Poisoner of malice prepensed, *Lam. ibid.*

Robbing in day, or nigh a high-way, *Lam. ibid.*

Horse-

Horſe-ſtealer, *Lam. ibid.*

Church-robber. *Lam. ibid.*

Robbing of a houſe, any being in it. *Lam.* 564.

Robbing of a booth or tent, any being in it. *Lamb. ibid.*

Commander of petty-treaſon. *Lam. ibid.*

Commander of wilful murder. *Lam. ibid.*

So of robbery in any dwelling-houſe, in or near any high-way. *Lam.* 565.

Stabbing one who hath no weapon drawn, nor ſtruck firſt, if he dye thereof within ſix moneths. 1 *Jac. c.* 8. *Lam.* 565.

"To burn any dwelling houſe, or any part "thereof. *Lam. ibid.*

To burn any barn having any corn in it. *Lam.* 565.

Reporting falſe rumors againſt the King, deviſing or writing ſeditious or ſlanderous matter againſt the King. 23 *El. c.* 2.

Souldiers departing without licenſe of their Captain. *Lam.* 565.

Souldiers or Marriners which wander begging. 39 *El. c.* 17.

Or exceed the time of their licenſe. *ibid.*

Or forge, or uſe forged licenſe, knowing it. *ibid.*

The ſecond conviction for forging falſe deeds. 5 *El. c.* 14. *Lam.* 266.

Privily to take away goods or money above 12 pence from the perſon of another. 8 *El. c.* 4. *Lam.* 566.

Calling himſelf an Egyptian, or keeping ſuch company contrary to the Statutes. 1 and

2 *Phil.*

2 *Phil. & Mar. cap.* 4. 5 *El. cap.* 20. *Lam.* 566.

A confined Recusant refuseth to abjure the Realm, or will not go, or returneth without licence, 35 *El. c.* 1, 2.

"To acknowledg any fine, recovery, deed "inrolled, statute, recognizance, bail, or judg- "ment, in the name of another not privy "thereunto, 21 *Jac. cap.* 26. *Dal.* 276.

To what persons Clergy is grantable.

To a Bastard.

To Bigamus.

To whom not grantable.

Women, *Vide* Women.

One that hath had it formerly, except he be within holy Orders. 1 *E.* 6. *c.* 12. *Lam.* 563.

In what cases Clergy is allowable.

Clergy shall be allowed in all cases, saving such as are mentioned, 1 *E.* 6. *c.* 12. or especially since that time taken away. *Cro.* 118. *nu.* 33.

Clergy shall be allowed but once. 4 *H.* 7. *c.* 13. *Lam.* 563. except he be within Orders. *Cro.* 118. a. *nu.* 36.

A Woman convicted of felony above 12 pence, and under 10 shillings, wherein a man may have his Clergy, shall be burnt in the hand with T. and whipped. 21 *Jac. c.* 6.

Upon an attainder by outlawry, Parliament,

ment, ſtanding mute, challenging peremptorily above twenty, where the Statute taketh it away upon conviction by verdict, *vid. Lam.* 567. if Clergy ſhall be denied.

Juſtices of Peace may give Clergy to a felon, if the Ordinary be preſent; but they cannot fine the Ordinary for his abſence, but muſt reprieve the priſoner, *Lam.* 551. *vide* Ordinary.

If the Enditement doth not directly agree with the words of the ſtatute that taketh away Clergy, the priſoner may have his Clergy, *Lam.* 566.

After conviction and Clergy allowed, and the party burnt in the hand, he may be indicted of another felony, *Lam.* 559. 18 *Eliz. cap.* 6.

Where any man hath priviledg of Clergy, as a Clerk convict, and alſo in all caſes of felony wherein the benefit of Clergy is reſtrained, excepted, or taken away by Statute (wilfull murder and poiſoning of malice prepenſed excepted) any Lord of the Parliament, or Peer of the Realm ſitting in Parliament, ſhall, upon his requeſt and prayer, alledging that he is a Lord or Peer of the Realm, though he cannot read, without burning in the hand, loſs of inheritance, or corruption of bloud, be adjudged for the firſt time only as a Clerk convict, 1 *Ed.* 6. *c.* 12. but in all other caſes, wherein Clergy is taken away by any Statute ſince 1 *E.* 6. he is in the ſame degree as a common perſon, *P. R.* 213. *vide* Ordinary.

Cloth,

Cloth.

Every Justice beyond *Trent* hath some power in searching out the deceit of straining or stretching those country clothes, 39 *Eliz. cap.* 20.

Any Justice of Peace next unto any Town corporate, or City beyond *Trent*, is to joyn with the City or Town in appointing Overseers for Cloth, *ibid.*

Two Justices of Peace must appoint yearly Overseers of cloth sold in Towns not being corporate, and swear them to see execution of that part of the Statute which is yet in force, 3 *E.* 6. *c.* 2. *Lam.* 359. *Dal.* 42.

One commanded by two Justices of the Peace to appear to be made an Overseer of keeping the Statute of clothing, and without reasonable excuse refusing, shall forfeit 40 shillings, one half to the two Justices, *Lam. ibid.*

Two Justices of Peace may dispose the mony rising of deceitful cloth stretched, 39 *El. c.* 10.

Woollen cloth presented by a retailer thereof to two of the next Justices of Peace, as defective against this Statute, and the Statute 4 & 5 *P. & M. c.* 5. they shall cause the same to be cut into three equal parts, whereof one part to the King, one part to the presenter, and the third part to the Justices themselves, 5 *E.* 6. *c.* 6. *Lam.* 359.

Justices of Peace faulty in executing the Statute against the deceitful stretching of

Northern

Northern cloth, loſe 5 pound, 39 *El. c.* 20.

Clothier muſt ſet his ſeal of lead to the cloth, to declare the length, to be tryed by water, or be fined, 3 *Ed.* 6. *c.* 2. *Lam.* 469.

Cloth is not to be ſtretched above a yard and a half in length, and half a quarter in breadth, nor to ſhrink more in wetting, on pain of 40 ſhillings, *ibid.*

Browns, Blews, Pewks, Tawnies, and Violets, muſt be perfectly boiled, grained, or maddered upon the Woad, and ſhot with good Cork or Orchal, otherwiſe the Dier loſeth 20 s. for every offence, 3 *Ed.* 6. *c.* 2. *Lam.* 469.

Wool for Ruſſets, Marbles, Graies, Bayes, or for hats or caps, muſt be perfectly woaded, boiled, and maddered, or loſe 20 s. every cloth, or wooll for a cloth, *ibid.*

Dying with Brazil, thereby to make a falſe colour, is loſs of 20 ſhillings a time, 3 *Ed.* 6. *c.* 2. *Lam.* 469.

Putting flax, chalk, ſtarch, or other deceivable things upon any cloth, except Devonſhire and Cornwal ſtraits, loſeth 40 s. a time, *Lam. ibid.*

Selling cloth by leſs meaſure then after the true contents by the yard and inch, loſeth ſix ſhillings 8 d. a yard, *ibid.*

Putting to ſale cloth preſſed to be uſed in *England*, *Wales*, or *Ireland*, loſeth the cloth or value, *ibid.*

Refuſing to be ſearchers of cloth, or neglecting to ſearch once a quarter, loſeth as the offenders, *ibid.*

Interrupting

Interrupting the search of cloth is loss of 20 l. *ibid.*

Kentish cloth above six pound price, must contain betwixt 28 and 30 yards in length being wet, and 7 quarters broad within the lists, and being well dressed, must weigh 76 pound, or lose 20 shillings for want of length and breadth, and so much for wanting of four pound of the weight, 5 *Ed. 6. c. 6. Lam.* 470. See now, 4 *Jac. c.* 2.

Deceit in linnen cloth, whereby it is become worse for good use, is losse of cloth, fine, and imprisonment for a month, 1 *Eliz. c.* 12. *Lam.* 471.

Offences against the Statute concerning the stretching of Northern clothes, to be presented by the Overseers at the next Quarter Sessions after the offence, and there to be heard and determined, 39 *El. c.* 20.

Offences of the Justices of Peace in neglecting their duty, by not executing of the Statute of deceitful stretching of Northern clothes, to be heard and determined by Justices of Assize, 39 *El. c.* 20.

Commission of the Peace.

The Commission of the Peace is determinable at the Princes pleasure, either by expresse word, implication, or death, or by the presence of higher powers, or by occasion of another office, as to be made Sheriff, *Lam.* 66, 67, 68, &c.

"If Justices sit by Commission, and do not "adjourn the Sessions, the Commission is void.

void, *Brook Commission*, 12. *Cro.* 188. a.

Commission granted *hac vice tantum*, is determined after once sitting, if they do not adjourn the same, *Lam.* 71.

A new Commission of the Peace *hac vice tantum*, will determine the old, *Lam.* 68.

A Commission of the same kind in the same limits to other Commissioners without words of discharge, is a revocation of the former by implication, *Cro.* 189. a. *Lam.* 67. *Dal.* 11.

A proper Justice is made within a special liberty, without words of prohibition, the Justices of the Shire may meddle there, *Lam.* 68, 69.

The making of a new Commission is no determination of the old, till it be read or proclaimed at some Sessions, or in a full County, or at the Assizes, *Dal.* 11. *Lam.* 69.

The old Commission determining by a new, no process or suit hanging before the old Commissioners, is discontinued thereby, *Dalt.* 12. *Cro.* 189. 2. *Lam.* 69.

Accession of a higher title taketh not away the authority of a Justice of Peace, *Dal.* 9. *Cro.* 188. a. *Lam.* 70.

A new Commission to hear and determine felonies, determineth the old Commission of the Peace, but not concerning the Peace, *Lam.* 72. *Brook Commission* 8.

A Justice of Peace, in making justification by vertue of his Office, needeth not to shew the Commission of the Peace, because the keeping thereof belongeth to the *Custos Rotulorum*, *Lam.* 387, 388. *Cro.* 120. b. *nu.* 13.

"By

"By 17 *R.* 2. *c.* 10. in every Commission
"of the Peace, two men of Law (amongst
"others) are to be assigned, *viz.* to proceed in
"the deliverance of felons, *Dal.* 50.

"Two were joynt Commissioners, and it is
"presented that one only sate, and fined the
"Countrey; and it was held void. But if one
"sit, and it is recorded that it is done before
"both, it is good. So of Justices of Peace,
"*Cro.* 121. a. *nu.* 19. & 189. a. for averment
"shall not be taken against the act of the Jus-
"tices or Commissioners, *Cro* 189. a.

"A Justice cannot be made by writ but by
"Commission, but may be discharged by writ
"which is in nature of a *Supersedeas*, *Brook*
Commis. nu. 18.

"If the Justices in Eir, after Proclamation
"made, do come into the Country, and sit
"there by vertue of their authority, then
"ceaseth the power of the Commissioners of
"Peace. And so likewise, if the Kings Bench
"should remove into the County, *Lam.* 71.
"*vide Cro.* 188. b. & 189. a. *Brook Commis.*
"*nu.* 18. But *Lambert* maketh a *Quære*, for
"that Just. of *Nisi prius* do ordinarily bring
"a Commission of *Oyer* and *terminer*, *Lam.*
"71. and yet no determination of the Com-
"mission of Peace.

"And *Brook* Commis. 8. and *Cro.* 188. b. *a*
"*novel Commission de oyer & terminer felonies*
"*determine le ancient Com. del P. quant a*
"*Oyer, &c. felonies, mes nemy quant al Peace.*
"*Et issint vide Commis. determine in part, &*
"*remaine pur le remnant.*

Commons

Commons.

Commons in Forrests and elſwhere, muſt be driven yearly within 15 dayes after Michaelmas by the owner or Officers, on pain of 40 ſhillings a time, 32 *H.* 8. *c.* 13. *Lam.* 483.

Vide plus Horſes.

Common Prayer.

If any Miniſter have refuſed to uſe the Common Prayer, or to miniſter the Sacraments according to the Book of Common Prayer, in ſuch order and form as is mentioned in the ſaid Book, or wilfully ſtanding in the ſame, have uſed any other form in open Prayer, or in adminiſtration of the Sacraments, or ſpoken any thing in derogation of the ſaid Book, or any part thereof, for the firſt offence, it is loſs of his ſpiritual living for a year, and impriſonment for ſix months without bail: for the ſecond, deprivation and impriſonment for a year: for the third, deprivation and impriſonment all his life, 1 *El.* *c.* 2. 23 *El.* *c.* 1. *Lam.* 417.

Any having in play, ſong, or rhyme, or by any open word ſpoken in derogation of the Book of Common Prayer, or any thing therein contained, or having cauſed or maintained any Miniſter to ſay any other Common Prayer, or miniſter Sacraments in other manner, or interrupting any Miniſter to ſay open Prayer, or adminiſter the Sacraments according to the ſaid Book, he loſeth 100 Marks, or ſix months impriſonment

imprisonment without bail for the first of-
fence: and for the second, 400 Marks,
twelve months imprisonment: and for the
third, all his goods, and imprisonment for
life, *ibid.*

Concealment, *vide* Jurors.

Confeſſion.

After a free confeſſion of an Indictment
and ſubmiſſion to fine in an action at the par-
ties ſuit, for the ſame treſpaſs, he ſhall
plead *Not Guilty*: otherwiſe of a confeſſion
modo, as when he putteth himſelf *ſub gra-*
Regis, *Lam.* 530.

Quære whether if he once make a fine,
ſhall not be eſtopped to plead *Not Guilty*. A
whether the Juſt. of Peace may drive the par
either to an abſolute confeſſion, or to his tr
verſe, *ibid.*

The voluntary confeſſion of an offender
gainſt the Statute, 1 *Jac. c.* 9. 4 *Jac. c.* 5. bef
a Juſtice of Peace is a conviction, and a
confeſſion his oath is ſufficient proof aga
any other offending at the ſame time, 21 *J*
c. 7. *Dal.* 26.

Conjuration.

Conjuration of wicked ſpirits is felo
5 *El. c.* 16. *Lam.* 227.

Vide plus Witchcraft, 1 *Jac. c.* 12.

Con

Conſervers of the Peace.

Coroners are Conſervers of the Peace, and may in ſome caſes impriſon, *Lam.* 395.

Conſtables are Conſervers of the Peace within their limits, *D. l.* 2. *Lam.* 14.

Conſtables.

Every Conſtable at the Common Law before the Statute 3 *H.* 7. *c.* 3. & 1 & 2 *P.* & *M. c.* 13. might bail one ſuſpected of felony by obligation, or take ſurety of the Peace by obligation, or commit him to priſon that made an affray, till he found ſureties, *Lam.* 15.

Conſtables or other Officers may lay no hands on two intending to fight, till weapons be drawn, or offer of blow, *Lam.* 132.

Conſtable hurt in parting an affray, may have an action againſt the affrayer; ſo may any other officer: but the affrayer can have none againſt them, *Lam.* 132, 133.

Conſtable or officer preſented at the Seſſions for not endeavouring to part an affray, being preſent, ſhall deeply be fined, *Lam.* 133.

Not ſo, if he be told of it being abſent, *Dal.* 33. *at quære contra. Cro.* 146. b.

Two fighting in a houſe, the doors being ſhut, the Officers may break open the doors to ſee the peace kept, *Lam.* 133.

Conſtable taking an affrayer muſt impriſon him in the ſtocks, not in his houſe; and that till he may provide to carry him to the Gaol, *Lam. ibid.* or to a Juſtice of Peace, *Lam.* 333 *Dal.* 33, 35.

Con-

Constable or Justice, if need be, may command aid of the Kings people for pacifying an affray, *Lam.* 134.

Constable or Officer may defend himself, and apprehend and imprison the party that shall make an affray upon him, *Lam. ib. Dal.* 35. *Cro.* 147. a.

One Justice of Peace may command that two Constables be chosen in each Hundred, *Lam.* 186.

Vide plus Affray, Arrest, Rogues.

High-constables at their petty Sessions, for an affray made in disturbance of the Court, may imprison the offenders, *Dal.* 3. *Cook* 11. 43, 44.

Chusing of High-constables useth to be at the Quarter Sessions; if out of Sessions, by the major part of the Justices of that division where they dwell; and use to be sworn at the Sessions, or by warrant from the Sessions, *Dal.* 46.

Two Justices of the Peace may appoint and swear new Constables, Headboroughs, &c. in case of death or removal of such Officers out of the Parish: and if for default of holding Courts Leet, they continue above the year, they may be discharged at the Sessions, and others put in their places. 14 *Car.* 2. *ca.* 12.

And by the same Stat. Constables, Tything-men and Headboroughs, being out of purse, with the Churchwardens and Overseers of the poor, and other Inhabitants of the Parish, may make rates upon all occupi-

ers

ers of Land, and Inhabitants, and all others chargeable by the Statute of 42 *El.* to the poor, which being confirmed under the hands and seals of two Justices of the Peace, may be levyed by their Warrants, by distress and sale of the Refusers Goods.

Vide plus Prison.

Conventicles.

Those are sometimes called Conventicles, wherein many do impart with others their meaning to kill a man, or to take anothers part in all things, *Law.* 173.

Champerty also, maintenance, conspiracies, confederacies, and giving of liveries, o her then to menial servants and officers, be contained under the word Conventicles, *Lam. ibid.*

The stat. 35 *El. ca.* 1. declared to be in force, and further remedies against the dangerous practises of seditious Sectaries, and other Meetings in Conventicles, under colour of exercise of Religion: See the Act at large, being upon continuance for three years after the end of this Parliament, of the 16th. year of King Charles the second, and to the end of the next Session of Parliament after the said three years, and no longer, 16 *Car.* 2. *ca.* 4.

And the Act of 17 *Car.* 2. *ca.* 1. *Apud eos*, Of the Oath and Declaration to be taken by non-conforming Ministers or Teachers, in the last Abridgment of the

Statutes, title *Nonconformists*, in the Appendix: And see *Quakers*.

Conies; *vide* Hunting.

Corn.

Certificate of one Justice of Peace, joyned with the Customer of the place, of unlading and selling of corn, grain, or cattel carried by water from one place to another of this Realm unto the Customer and Controller of the place where the same was imbarked, is sufficient upon the statute of forestalling, 5 *Ed.* 6. *c.* 14. 13 *El. c.* 25.

One having sufficient Corn, buying secretly without bringing so much as he buyeth, to sell the same day as the Market goeth, loseth double, 5 *Ed.* 6. *c.* 14. *Lam.* 451.

Vide plus Transportation.

Cutter and carriers away of Corn, *Vide* Hedge-breakers.

Coroners.

Coroners ought to certify their inquisitions at the General Gaol-delivery, and not at the Sessions, 1 & 2 *P. & M.* 13. *Lam.* 369.

Coroners being parties to the exigents, and Judges of the outlawry, ought to be present at the Session, *ibid.*

Coroners are conservers of the Peace, and may in some cases commit men to prison, &c.

Coroners may be convicted of offences against

againſt the ſtatute of 1 *H.* 8. *c.* 7. by examination of witneſſes, and touching extortion, or not executing their offices, before a Juſtice of Peace, *Cro.* 130. b. *Lam.* 434.

Coroners fees, *vide* Fees.

Cottages.

Any erecting, or converting any dwelling to be uſed as a Cottage for dwelling, unleſs he lay four acres of his own free-hold inheritance lying near to the ſaid Cottage, to be continually manured therewithall ſo long as that Cottage ſhall be inhabited, forfeiteth ten pounds; except in a City, corporate or market Town, or ancient Borough, or being the dwelling-houſe of workers in minerals, coal-mines, quarries of ſtone or ſlate, makers of brick, tile, lime, or coal, not being above a mile from the works, and only uſed for the habitation of ſuch workmen, or for ſailers, or men of manual occupation, for the making, furniſhing, or victualling of ſhips, and being within a mile of the ſea at the ſide of ſome navigable river; or a cottage for the keeper of Forreſts, Chaſe, Warren or Park; or Cottage for a common herdſman or ſhepherd of any Town, or wherein any poor, lame, ſick, aged, or impotent perſon ſhall dwell; or hath been decreed to continue for a dwelling by the Juſtices of Aſſiſe or of the Peace in open Aſſiſes or Quarter Seſſions, 31 *El. c.* 7. 39 *El. c.* 3. 43 *El.* 2. *Lam.* 476. 35 *El. c.* 6. for continuing the Cottage 40 ſhil. a moneth.

None to maintain or uphold any cottage, not having four acres to it, except as before, *ibid.*

Owner or occupier of a cottage must not suffer more housholds then one to dwell in a cottage, 31 *El. c.*7. except it be by order of the Justices at the Quarter Sessions, with leave of the Lord of the waste, at the charge of the Parish, Hundred, or County, 39 *Eliz. c.*3. 43 *El. c.*2. *Lam.*611. Offences against the stat. of cottages and inmates, are to be heard and determined at the Quarter Sessions, 31 *El. cap.*7. *Lam.*614. and a Decree may be made at the Quarter Sessions for continuance of a cottage that hath not four acres of land, *ibid.*

"A Decree may be made at the Quarter "Sessions for the continuance of a cottage "that hath not four acres of land. And the "Justice may enquire, hear and determine "of cottages and inmates against the stat. of "31 *El. c.*7. *Lam.*614.

County.

A Justice of Peace in one County pursuing a felon into another County where he is taken, he shall be committed to the Gaol of the County where he was taken, *Dal.*297,298.

Cozeners and Cozenage.

Any falsly and deceitfully getting into his possession money or goods of other mens, by colour of false privy tokens or counterfeit letters, and convicted thereof at the Quarter Sessions by examination of witnesses, shall suf-

for any corporal puniſhment, except death, 33 *H.8. c.1. Cro.*83.a.130.b. *Dal.*48. *Lam.*442, 535, 569, 609.

Two Juſtices of Peace, one being of the Quorum, may bind over to the next Seſſions any ſuch ſuſpected perſon, or may impriſon or bail them untill the next general Seſſions, *Dal.* 48.

One Juſtice of Peace (as it ſeemeth) may bind Cheaters to their good behaviour, ſo to Aſſiſes or Seſſions, or ſend them to the houſe of Correction, *Dal.*48.

Croſſes, *vide Agnus Dei.*

Croſs-bows and Hand-guns.

Every perſon may attach an offender againſt the ſtat. 33 *H.* 8. *c.* 6. and carry him to the next Juſtice of Peace in the ſame County, *Dal.*65.

The Juſtice upon due conſideration, may ſend the offender to the Gaol, till he have paid the penalty of the ſtatute of 33 *H.*8. *c.*6. *ſc.* 10 li.

The particulars of the ſaid Statute.

1. None under an 100 pounds *per annum* may ſhoot in, or keep gun, dag, piſtol, croſs-bow, or ſtone-bow.

2. No perſon may ſhoot in, carry, keep, uſe, or have any gun under three quarters of a yard in length: if it be ſhorter, every one having an 100 pounds *per annum* may ſeize

the gun, and muſt break it, or loſe 40 ſhillings, if he break it not within twenty daies, *Lam.* 296, 480. but may keep the croſs-bow or ſtone-bow, *Dal.*65.

3. No perſon not having an 100 pounds *per annum*, may carry in his journey any gun charged, or bow bent, but only in time and ſervice of war, or going to the muſters.

4. None may ſhoot in a gun near to a Market-Town, but in defence of his houſe or perſon, or at a Butt.

5. The maſter may not command the ſervant to ſhoot, except at a Butt or Bank of earth, or in War.

Exceptions out of the Statute.

1. Shooting at a Butt or Bank of earth by ſerving-men, whoſe maſters are inabled by ſtatute.

2. Inhabitants of market Towns.

3. Dwellers alone, or near the Sea-ſide.

4. Gun-makers or Gun-ſellers.

5. Thoſe that have placards may ſhoot according to their placards, *Dal.*65.66.

Any under the value of 100 pounds *per annum*, licenſed to ſhoot in Croſs bow or Hand-gun, is to preſent his name to the next Juſtice, by him to be preſented & recorded at the next Quarter-Seſſions, or elſe the Juſtice to loſe 20 ſhillings, 2 *Ed.*6. *c.*14. *Lam.*301. *Quære* if this be now in uſe.

Any licenſed at Quarter-Seſſions to ſhoot in Hand-gun or birding-piece for Hawks-meat,

meat, is to ſhoot onely at Fowl not prohibited, and to be bound in 20 li. 1 *Jac. c.* 27.

Any two Juſtices of Peace may commit to the Gaol for three moneths any that ſhoot with Gun or Bow at any Partidge, Pheſant, houſe-Dove, Mallard, or ſuch Fowl, or at any Hare, 1 *Jac. c.* 27.

"If any perſon not having lands, &c. of "the yearly value of 40 l. or not worth in "goods 200 li. ſhall uſe any Gun, Bow, or "Croſs-bow, to kill any Deer or Conies (ex-"cept ſuch perſon ſhall have any ground "incloſed, uſed for the keeping of any Deer "or Conies, &c. or to be Keepers or War-"reners) any perſon having in lands 100 li. "by year in fee or for life, may take from "ſuch offender ſuch Guns, Bows, or Croſs-"bows, and keep them to his own uſe, 3 *Jac.* "*c.* 13. *Dal.* 65.

Curriers, *vide* Leather.
Cuſtomer, *vide* Corn.

Cuſtos Rotulorum.

Cuſtos Rotulorum hath the cuſtody of the Records and of the Commiſſion, and ought to ſee that they be brought to the Seſſions, *Lam.* 387.

Cuſtos Rotulorum is alwaies a Juſtice of the Quorum, *Lam.* 387.

Cuſtos Rotulorum alone cannot ſummon a Seſſions, ſeeing that he hath no more authority in that behalf then any of his fellows have, *Lam.* 382.

Cutpurſe.

Taking of the goods of another to the value of 12 d. from his perſon into his own poſſeſſion, without aſſault or fear, is felony without Clergy, 8 *El. c.* 4. *Lam.* 270. *Dal.* 262. & *Lam.* 422, 566.

But it will not amount to felony unto death, unleſs the thing taken be of the value of twelve pence, *Lam.* 270. *Dal. Quære.*

The thief muſt have an actual poſſeſſion of the thing ſevered from the perſon of the Owner, *Lam.* 271. *Dal.* 262. *Cro.* 35. a. no. 17.

Cutting out of Tongues.

Cutting out of tongues, and putting out eyes, is felony, if it be done of ſet purpoſe, 5 *H.* 4. *c.* 5. *Lam.* 420.

Cutting of a Pond head.

Deſtroying of the head or damme of any Pond, Moat, Stew, or ſeveral pit wherein fiſhes are put by the Owner thereof, or wrongfully fiſhing in any of the ſame, to the intent to take away the fiſh againſt the Owners will, 5 *El. c.* 21. *Lam.* 446. See 3 *Jac. c.* 13. he is to ſuffer impriſonment, and to be bound to his good behaviour for ſeven years.

Deer and Deer-hayes.

Juſtices of Peace may not receive an indictment for killing a Hart proclaimed, for the juriſdiction of it belongeth to the Juſtices of the Forreſt, 21 *H.* 7. *c.* 30. *Lam.* 505.

One convicted of unlawful taking or killing of Deer, muſt pay treble damages to the party, three moneths impriſonment, and after to remain there till he put in Sureties for the good behaviour for ſeven years, 5 *El. c.* 21. 3 *Jac. c.* 13. *Lam.* 571.

To ſell, or buy to ſell any Deer, Hare, Partridge, or Pheſant, except houſe-Partridge or Pheſant, or brought from beyond the Seas, loſeth for every Deer 40 ſhil. every Hare or Partridge 10 ſhil. and every Pheſant 20 ſhillings, 1 *Jac. c.* 27.

Vide plus Hunting, and Buckſtalls.

Demurrer.

If one indicted, demurreth upon the evidence, the Juſtices ought to record it, *Lam.* 539.

Deputy.

A Judge cannot make a Deputy, *Lam.* 64.

Divine Service.

Any above the age of ſixteen years, that repaireth not faithfully and diligently to his Pariſh Church or Chappel accuſtomed, or (upon ſome reaſonable lett) to ſome uſual

place, where Common Prayer is to be uſed upon every Sunday and other Holy-daies, and hath not there orderly and ſoberly abiden during the time of ſuch Common Prayer, Preaching, or other ſervice of God, loſeth 12 pence for every ſuch offence, to be levied by the Church-wardens, to the uſe of the poor of the ſaid Pariſh, and to be puniſhed by the cenſures of the Church, 1 *El.* c. 2.

It is lawful for one Juſtice of Peace in the limit, diviſion, or liberty where the offender dwelleth, in not coming to Church, according to 1 *El.* c. 2. upon proof of default, by confeſſion of the party or oath of witneſs, to call the party before him; and for want of ſufficient excuſe and proof thereof, to the ſatisfaction of the ſaid Juſtice, the ſaid Juſtice may give his warrant to the ſaid Church-warden of the ſaid Pariſh, under his hand and ſeal, to levy twelve pence for every default by diſtreſs; and in default thereof, to commit the offender to priſon till paiment made, 3 *Jac.* c. 4.

Vide plus Recuſants, and Sunday.

Dogs, *vide* Hunting, and Partridges, Drovers, *vide* Badgers. Dier, *vide* Cloth.

Drunkenneſs.

Any Juſtice of Peace, upon his own view, confeſſion of the party, or proof of one witneſs upon oath, hath power to convince any perſon of drunkenneſs, 21 *Jac.* 7.

Any,

Any, within ſix moneths after the offence committed, lawfully convicted of drunkenneſs, loſeth 5 ſhillings, to be paid after conviction to the Church-wardens of the Pariſh where the offence ſhall be committed; and refuſing and neglecting to pay the ſame, to be, by warrant from the Juſtice convicting levied on his goods, if he be unable, to be ſet into the ſtocks ſix hours: and upon conviction of the ſecond offence to be bound with ſureties in ten pound to his good behaviour, 4 *Jac. c.* 5. and for want of ſureties to be ſent to the Gaol.

If the officer charged is negligent in levying or in correcting, he loſeth 10 ſhillings, to be levied and diſpoſed as the penalty it ſelf, 4 *Jac. cap.* 5.

Church-wardens to be accountable to the uſe of the poor for the penalties by them received upon the ſtatute of drunkenneſs, *ibid.*

Conſtables, Church-wardens and Tithingmen, in their oaths, for their office are to ſwear to preſent offences againſt the ſtatute of Drunkenneſs, 4 *Jac.* 5.

Offences againſt the ſtatute of drunkenneſs to be inquired after, and preſented before the Juſtices of Aſſiſe, or Juſtices of Peace at their Seſſions, and proceeded upon ordinary indictment, *ibid.*

Offenders againſt the ſtatute of drunkenneſs not to be twice puniſhed for the ſame offence, *ibid.*

Eccleſiaſtical

Eccleſiaſtical cauſes and perſons.

ECcleſiaſtical perſons are ſubject to arrest for the Peace, unleſs they be attendant on Divine Service, *Lam.*93. *Dal.* 166.

Vide plus Treaſon.

Eggs of Wild-fowl.

Eggs of any Wild-foul uſually eaten, taken from the place where they were layed, or deſtroyed betwixt the firſt of *March* and the laſt of *June*, one years impriſonment, and loſe after the rate for each egg, *viz.* Egs of crane "or buſtard 20 d. bittern, heron or ſhovelack "8 d. mallard, teal, and other wild-fowl, one "penny, 25 *H.*8. *c.*11. 3 *E.*6. *c.*7. *Lam.*453.

To take away the eggs of any hawk out of the woods or ground of any other perſon, three months impriſonment, and bound to his good behaviour for ſeven years, 5 *E.c.*21. *Lam.*446.

To take or cauſe to be taken upon his own or other mens grounds, the eggs of any falcon, goſhawk, lanner, or ſwan, one year and a daies impriſonment and fine, 11 *H.*7. *cap.*17. *Lam. ibid.*

Taker or willing deſtroyer of eggs of Partridge, Pheſant, or Swan, upon conviction by confeſſion, or oath of two witneſſes before two Juſtices of Peace, where the offence or apprehenſion is, to be impriſoned three months, unleſs he pay to the Church-wardens of the Pariſh in one of the places to the uſe of the poor 20 ſhil. 1 *Jac. c.*27.

Vide plus Partridges, Pheſants, and Fowlers.

Egyptians.

One Juſtice of Peace may within one moneth after the arrival ſeize all the goods of any outlandiſh perſons, calling themſelves Egyptians, that ſhall come into the Realm, or company with them, or diſguiſe themſelves like them, and keep to his own uſe the one moiety, accounting in the Exchequer for the other, reſtoring to them again their goods, that prove by two witneſſes that they were craftily or felonioufly ſtolen from them, upon pain of forfeiture of double the value to the prover, 22 *H.* 8. *c.* 10. *Dal.* 49. *Lam.* 195 228, 371, 427.

After the moneth, it is felony, and then they ſhall have the whole, 1 and 2 *Ph. & M* 4. *Quære*, whether the Stat. 22 *H.* 8. be ſtill in force, or altered by the Statute of 1 *&* 2 *P. & M. c.* 4.

Embezeling of Records, *vide* Records.

Embracer, *vide* Maintainer.

Enditements.

"Enditement is the verdict of Jurors that "be charged to enquire of the offence that is "preſented to them, *Lam.* 486.

All enditements ought to contain certainty, and therefore five principal things be requiſite in preſentments, *Lam.* 487.

1. The name, Sirname, and addition of the party endited.

2. The

2. The year, the day, and place in which the offence was done.

3. The name of the perſon to whom the offence was done.

4. The name and value of the thing in which the offence was committed.

5. The manner of the fact, and the nature of the offence; as the manner of the treaſon, murder, felony, or treſpaſs, *Lam.* 487.

Enditement of the acceſſary to felony, muſt contain the name of the principal, *Lam.* 488.

Miſnamer in an Enditement ſhall not be made good by an *alias dictus*, *Lam.* 490.

Where the name of the party offended cannot be known, it may be *cujuſdam ignoti*, becauſe of the Kings advantage thereby by forfeiture, *Lam.* 494.

Any certainty whereby the day and year may be known, is ſufficient, *Lam.* 491.

An offence done before midnight, muſt be ſuppoſed the day before; if after, then the day after, *Lam.* 492.

One ſtriketh one day, whereon he languiſheth, and dyeth on another; the Enditement muſt ſuppoſe the laſt day, on which he dyed, *Lam.* 491.

Enditement ſuppoſing the fact done a day not come, is not good, *Lam.* 492.

Enditement or preſentment for an omiſſion, as *A.* hath not ſcoured ſuch a ſewer, needs not to ſet down day nor year, *Lam.* 492.

Enditement ſuppoſing an offence done at two ſeveral times, not good, *Lam.* 492.

Certainty

Certainty of the place.

If no place be named where the offence was done, or a place be named, whereas in truth there is no ſuch place, the Enditement is void, 9 *H.*5. *c.*1.18 *H* 6 *c.*12. *Lam.*493.

If the ſtroke or poiſoning be in one county, and the death in another county, the Enditement in the county where the death is ſhall be good, 2 & 3 *Ed.*6. *c.*24. *Lam.* 493.

Certainty of the perſon to whom the offence is done, Lam. 494.

The goods of a Parſon of a Church, *Bona Rectoris*, *Lam.* 468.

The goods of the Church, *Bona parochianorum in cuſtodia Gardianorum*, *ib.*

The goods of Major and Communalty, and the Major dyeth before the Enditement, *bona Communitatis*. *Quære*, becauſe they have no ſuch name of Corporation.

Goods taken in a mans life-time, and he maketh executor and dyeth, *bona Teſtatoris*.

Goods taken after his death, *Teſtatoris in cuſtodia Executorum.*

Goods hanging over a Tomb, *Executoris.* A Grave-ſtone, *bona Eccleſiæ.*

My goods are taken by a treſpaſſor, and taken from him again, the Enditement ſhall be *bona* of him that had the laſt poſſeſſion, *Lam.* 496.

Of the owner in the keeping of the bail, where they were taken from the Baily, *Lam.* 496.

Bona capellæ in cuſtodia, or *bona domus*, or *Eccleſiæ tempore vacationis*, is good, *Lam. ib.*

The name of the thing muſt be compriſed, *Lam. ibid.*

Bona & catalla in treſpaſs or felony is not good.

If dead things, it may be *bona & catalla*, expreſſing the names thereof in certainty.

If living things, it ſhall not ſay, *bona & catalla*, but *equum, bovem, ovem*, &c. *ibid.*

The value is to be declared in felony to make it appear petty larceny; in treſpaſs to aggravate the fault.

Enditement of things *feræ naturæ*, as Deer, Hares, Partridges, or Pheſants, is not good, unleſs they be taken in a Park or a Warren that be liberties, *Lam.* 469, 497.

Charters, their value cannot be eſteemed, *ibid.*

It muſt be ſaid *Pretii*, of living things, *Lam.* 497.

So of dead things in the ſingular number, *ibid.*

So of things that go by weight and meaſure, *Lam.* 497.

So of coin not currant, *ibid.*

It muſt be ſaid, *ad valentiam*, of dead things in the plural number, not going by weight and meaſure, *Lam.* 497.

Coin counterfeited, *ibid.*

Where the number ought to be expreſſed, as of the taking of Doves in a Dove-houſe, or young Hawks in a wood, there it muſt be *pretii* or *ad valentiam*, *Lam.* 497.

Coin

Coin currant carrieth his value with it, *ibid.*

The very manner of the fact, and the nature of the offence ought to be mentioned, *Lam.* 498.

Nature of the Offence.

Treason must have *Proditorie.*

Murder *Murdravit*, which implyeth *ex malitia p. excogitata*, *Lam.* 500. *Cro.* 101. a. 103. b.

Burglary, *Burglariter.*

Felony, *felonice*, *ib.* so petty larceny, *f. laïce.* In rape, *felonice rapuit*, *Lam.* 501.

Furatus seemeth good without *felonice.*

In felony, *cepit* alone, or *abduxit*, or *aspo. tavit* is not good, *La.* 501. but *cepit & abduxit.*

In trespass or felony, the words *contra pacem* must be used, *Lam.* 502.

In forcible entry, *vi & armis* be needless, *ibid.*

Upon a Statute, *contra formam statuti in hujusmodi casu editi & provisi*, ibid.

Where many Statutes concern one offence, *contra formam diversorum statutorum.*

Where after an acquittal one shall be endited for the same felony.

Where the first Enditement was void for insufficiency of matter of felony, *Lam.* 556.

Tryal in a wrong County, *ibid.*

Mispriſion of the party that should bring the action.

Where the first Enditement was as principal, the second Enditement as accessary

to

to the same felony after the fact, *Lam.* 557.

Where he shall not be again endited.

Where the Enditement was good.

Though it were by another name, if he be known by both, *Lam.* 555.

Though it suppose the same felony done in another year, *Lam.* 556.

Though the Process was erroneous, *ibid.*

Enditement at the Sheriffs Turn lawfully taken, must be taken by the Justices, and by them received, 1 *E.* 4. *cap.* 2, *Lam.* 504.

No enditement can be taken, nor enquiry made, but before two Justices, one to be of the Quorum, *Lam.* 48.

Enditement upon a penal Statute, whereof the King is only to reap the forfeiture, must be within two years after the offence.

And where a common person is, it must be within one year, except the Statute do otherwise direct, *Lam.* 487.

" Constable presents a fault at the Sessi-
" ons, which belongeth to his Office, which
" is allowed by the Inquest, it is good: Other-
" wise it shall not serve for an Endictment, *Crom.* 123. b.

" A man may be Indicted for the King
" upon any penal Statute, *Cro.* 101. a. *nu.* 3. 109. a. *nu.* 3.

" If there be two Villages in one parish,
" the Indicted shall be named of such a vil-
" lage *in parochia de A.* and not of the parish
" only. But if there be but one village there,
" the name of the parish only, or the name of

the

"the village only, or of the village in ſuch "a pariſh is ſufficient. And ſo if there be di- "vers hamlets, *Cro.*102.a.*nu.*16.

"In an enditement, *Si ſit de pecunia nume-* "*rata, exprimere debet numerum & genus pe-* "*cuniæ: ſi maſſa rudis, tum valorem: ſi for-* "*mata, tum qualitatem & pretium: ſi ſit pan-* "*nus, tunc colorem, pretium, & numerum ul-* "*narum: ſi animal, tunc genus, pilum, & pre-* "*tium; & quod felonice cepit illud contra pa-* "*cem*, Cro.103.a.nu.35.Stam.81.

Enquiry.

Juſtices of Peace may only enquire, and can proceed no further, as in

1. Certain offences againſt the Supremacy, 23 *El. c.* 1.

2. Treaſons, and miſpriſions of treaſon, made by the 23 *El. c.* 1.

3. Offences againſt the Statute of falſe rumors againſt the King, 23 *El.c.*1.

Enquiry of a forcible Entry, *vide* Forcible entry.

Enquiry by preſentment, *vide* Preſentment.

Enquiry by examination, *vide* Examination.

Enquiry by information, *vide* Information.

Eſcape

Escapes.

Constable arresteth one that hath hurt another, and voluntarily suffereth him to escape, and he that was hurt dyeth thereof within a year and a day; the Constable shall make a fine to the value of his goods, but it is no felony. *Lam.* 134.

To suffer a felon wilfully to escape, is felony; but a negligent escape is only to be fined. 1 *R.* 3. *c.* 3. *Lam.* 440. *Dal.* 276.

Wilfull escape of one arrested for larceny, man slaughter *per infortunium*, *se defendendo*, is not felony; if the act were not felony at the time of the escape. *Lam.* 230. *Dal.* 278. *Crom.* 39. *a. nu.* 5.

Wilful escape by the gaoler or keeper of a felon, is felony in the gaoler, not in the felon: if the escape be caused by a stranger, it is felony. *Lam.* 229. *Dal.* 278.

Escape suffered by him that receiveth a known felon, is no felony. *Lam.* 230. *Dal. ibid.* but shall be accessary, for that he was not arrested. *Cro.* 39. *a. nu.* 4.

Vide plus Prisoners.

A prisoner under arrest only escaping, the escape must first be presented, before he that suffered the escape shall answer it. *Dal.* 278.

A Justice sendeth for a felon out of the gaol, and freeth him without bail; it is felony in the Justice. *Dal. ibid.*

A Justice *pro defectu scientiæ* baileth one not bailable; it is but a negligent escape. *Cro.* 39. *b. nu.* 4. *Dal.* 279.

Offender

Offender upon his examination before a Juſtice confeſſeth the felony, who letteth him go without commitment or bail; it is a voluntary eſcape, and ſo felony in the Juſtice. *Cro.* 39.2.*nu.*7.44 a. *Dal.*304.

A Town not walled muſt anſwer the eſcape of a manſlayer in the day time. 1 *Cro.*40.b.*nu.* 1. *Dal.* 299.

The Hundred muſt anſwer for a man ſlain out of the Town, and for inſufficiency the County ſhall be charged. *Dal. ibid.*

Gaoler or other officer ſuffereth his priſoner to go abroad for a time, though the priſoner return as he was preſcribed, or let his priſoner go by bail or baſton; it is a negligent eſcape, and fineable. But *quere*, for priſoners ought to be kept *in ſolva & arcta cuſtodia. Dal.* 277. *Cro.* 39.b.*nu.* 5.

"A Conſtable voluntarily ſuffereth a thief "to drown himſelf, this is felony in the Con- "ſtable. But if the thief (without the aſſent "of the Conſtable) kill, hang, or drown him- "ſelf, it is a negligent eſcape in the Conſta- "ble. *Dal.*276.

Voluntary eſcape of one arreſted or committed for felony, is felony in the Gaoler; if for treaſon, it is treaſon; if for treſpaſs, it is treſpaſs. *Dal.*278.

Eſcheators.

Eſcheators other then thoſe of a City or Borough, that take upon them the office, not having lands in the Shire of twenty pounds *per annum*, or for life at leaſt, or that hath

ſold

ſold or ſet to farm the office, or made a deputy for whom he will not anſwer, and whoſe name he doth not certify within 20 dayes into the Exchequer, ſhall be fined 40 l. 12 E. 4. *c.* 9. *Lam.* 429.

Eſcheater taking for execution of any writ in any County above forty ſhillings, or forty ſhillings where the land is not held *in capite*, ſhall be fined forty pound, 23 *H.* 6. *c.* 17. *Lam.* 430.

Eſcheator taking above 15 ſhillings for finding an office not exceeding five pounds a year, loſeth forty pounds, 33 *H.* 8. *cap.* 22. *Lam.* 430.

Eves-droppers.

Evesdroppers which ſhall by night evesdrop mens houſes, are to be bound to the good behaviour, *Dal.* 191.

Evidences.

Juſtice of the Peace muſt bind over informers for felony to appear and give evidence againſt the felon at the next General Gaol-delivery, *Dal.* 49.

Juſtice of Peace muſt bind ſuch as declare any thing material to prove the felony, to appear at the next Gaol-delivery, and give evidence, *Dal.* 303.

"If he which giveth evidence of felony to "a Juſt. of Peace againſt another, will not be "bound to give evidence at the Aſſiſes, he "ſhall be committed, or bound to his good "behaviour, *Cro.* 102. *b. nu.* 26. *Dal.* 35.

Ex-

Examination taken by a Justice of Peace in one county, may be certified into another County, and there read, and given in evidence. *Dal.*303.

Estreats.

Estreats are the extracts of fines, forfeitures and amerciaments made by the Clark of the Peace by Indentures, the one delivered to the Sheriff, the other to the Barons of the Exchequer. *Lam.*581.

Estreats of the penalty for shooting in guns, are to be recorded and sent into the Exchequer by the Justice that had the examination of the matter, *Lam.*297.

Sheriff or his minister that shall levy any of the Kings debts, without shewing the party the estreats under the Exchequer seal, shall be fined and pay treble damages to the party. 42 *E.*3.*c.*9. 7 *H.*4.*c.*3. *Lam.*432.

He that estreateth issues of others then such who were chargeable or charged, loseth five Marks to the King, and as much to the party. 27 *El.c.*7. *Lam.*432.

Examination.

Felon brought before a Justice, must be examined before he be committed to Prison, and the information of those that bring him must be put in writing within two dayes after, and the party bound to appear and give evidence at the next Gaol-delivery. 2 & 3 *P.* & *M.c.*10. *Lam.*212. *Dal.*49. 303.

Before the Statute, the examination of a felon

felon was not warranted at the Common law; for *nemo tenetur prodere ſeipſum*: but the offender ſhall not be examined upon oath. *Dal.* 307.

Circumſtances obſervable in examination of a felon, *Lam.* 218. *Dal.* 303. *Cro.* 98. a.

In what offences conviction ſhall be by examination, *vide* the ſeveral offences.

Conviction cannot be by examination only, but where the ſtatute giveth it, either by referring it to the diſcretion of the Juſtices, or ſpecially limiting it *Lam.* 534.

Where the Statutes limit conviction to be by examination general, a Juſtice of Peace may examine as well the offenders as witneſſes. *Lam.* 535.

Where the examination of a Juſtice of Peace is the conviction of the party, it ought to be upon oath: but when it is but to inform the Jury upon that enditement, it needs not. *ibid. Lam.* 536.

Examination of witneſſes is to be taken as well againſt as for the King. *Dal.* 308. But *quære* whether it may be upon oath, which maketh againſt the King.

Confeſſion of an offender before a Juſtice of Peace is not conviction, except he confeſs the ſame again upon his tryal or arraignment. *Dal.* 311.

"Juſtice of Peace may examine upon oath "him that informeth againſt a felon: for the infor-

" informer may die before the Aſſizes, and " then the information without oath is not of " ſuch validity, *Dal.* 307. *Lam.* 215. *Cro.* " 194. a. *nu.* 5.

Extolling forrein power, *v.* Treaſon.

Exciſe.

All Forfeitures and Offences committed within the immediate limits of the Exciſe Office in *London*, ſhall be adjudged and determined by the Commiſſioners there. And other offences done within all other Counties, Cities and Towns, ſhall be heard and determined by any two or more Juſtices of the Peace reſiding near the place where the Forfeitures or Offences ſhall be made, for which ſee the Act at large, (or the Abridgment touching matters incident to the Mannor of proceeding by the ſaid Juſtices therein) Stat. 12 *Car.* 2. *cap.* 24. 23 & 24

Extortion.

Ordinary, Archdeacon, Official, Sheriff, Eſcheator, Coroner, Under-Sheriff, Bailiff, Gaoler, or other Officer, that by colour of his office taketh more then his Fee, or any fee or reward for expedition, or unlawfully exacteth any oath or other undue thing, *Lam.* 434, &c. Any thing taken *colore officii*, is extortion; but *virtute officii* is allowable, *Cro.* 57. b. *nu.* 2. The Sheriff or Gaolor taking any thing of Conſtable for bringing a felon to the Gaol, is extortion, 4 *E.* 3. *c.* 10. *Cro.* 57. b. *nu.* 5.

" The Gaoler takes 8 pence of one in pri-
" ſon to let him have liberty, eaſment, o
" favour, it is extortion, *Cro.* 59. a. *nu.* 26.

If the Ordinary or his Miniſter take an
thing to allow a School-maſter to teach chil-
dren, 23 *El. c.* 1. *Cro.* 58. a. *nu.* 13.

" If the Ordinary take ought for letters o
" adminiſtration, or probates of Wills, whe
" the goods amount not to above 5 li. whereu
" the writer ſhall have 6 d. only; or if the
" be above 5 li. and not 40 li. the Ordinar
" 2 s. 6 d. and the Writer 12 d. and if abov
" 40 li. the Ordinary 2 s. 6 d. and ſcribe 12
" 6 d. or 1 d. for every 10 lines ten inche
" long, at the Writers Choice, *Cro.* 61. *nu.* 5.
" 21 *H.* 8. *c.* 6. it is extortion, and the Or-
" dinary forfeiteth 10 li.

Vide Fees.

The Marſhal detaining a Priſoner after h
is diſcharged by the Court, for any thing du
to him but his fees, *Cro. ibid.*

The Ordinary citing a lay-perſon to appe
in the Spiritual Court, to depoſe there a
witneſs, *Cro.* 59. b. *nu.* 35, 36, 37. & 60. n
44, 46, 48. & 231. a. & *Fitz. J. P. fol.* pri
it is extortion.

Vide plus Fees.

A man preſcribeth to have 4 pence of ev
one whoſe beaſts are taken in his ground, d
mage feſant being impounded, and to m
amends to him at his will, it is extortion
he take it, *Cro.* 58. b. *nu.* 18.

To take any thing for a mortuary, contr
to the ſtatute 21 *H.* 8. *c.* 6. where the g
6

come not to twenty nobles besides debts, or for a married woman or infant, or one that keeps no house, or wayfaring man, or any that is not resident where he died, is extortion, *Cro.* 59. a. *nu.* 27. 21 *H.* 8. *c.* 6.

"To take above 3 s. 4 d. for a mortuary, "when the goods amount to 10 marks, and "under 30 li. or above 6 shillings 8 pence, "where the goods are 30 pounds, and under "40 pounds; or above 10 shillings, where "the goods are above 40 pounds, the debts "payed, is extortion, *Cro.* 59. a. *nu.* 28. 21 *H.* "8. *c.* 6.

Fairs and Markets.

HE that keepeth a Fair or Market in a Church-yard shall be fined, *Stat. Wint.* 13 *E.* 1. *c.* 6. *Lam.* 419.

False imprisonment, *vide* Arrest.

False tokens, *vide* Cozeners.

Fees.

The Sheriff shall have upon arrest by Bill, Writ, or Warrant, 20 pence; the Bailiff that maketh the arrest, 4 pence; the Gaoler, if he be committed, 4 pence; and for the obligation 4 pence, and no more, on pain of 40 pounds, 23 *H.* 6. *c.* 10. *Cro.* 58. b. *nu.* 18. 176. b. *nu.* 19.

Bailiffs of Liberties are to have like fees as the Sheriffs and their ministers have out of Liberties, and like punishments for extortion, 23 *H.* 8. *c.* 24. *Lam.* 434. *Cro. ibid.*

Clark of the Peace to be fined.

For taking above 12 d. for inrolling a bargain and ſale of lands not exceeding 40 ſhillings a year, or 2 ſhil. 6 pence, if it do exceed 40 ſhil. a year, 27 *H.* 8. *c.* 16. and the Juſtices of Peace the like for taking above the ſaid ſums in the ſaid caſes, *Cro.* 59. a. *Lam.* 436.

For taking above 12 pence for a recognizance of one that taketh a rogue into his ſervice for a year, 14 *El. c.* 5. *Lam. ibid.*

For taking above 2 ſhil. for a licence and recogniſance of a Badger, Drover, Lader, Kidder, and regiſtring the licence of them both, 5 *El. c.* 12. *ibid.*

For taking above 12 pence for a licence and recogniſance to ſhoot Hawks-meat, 1 *Jac.*

Clark of a Juſtice of Peace to be fined for taking above 12 pence for a recognizance of an Alehouſe-keeper, 5 *E.* 6. *c.* 25. *Lam.* 43

Coroner refuſing to do his office of one ſlain by miſadventure without fees, loſeth 6 ſhillings, 1 *H.* 8. *c.* 7. *Lam.* 434.

Coroner taking above 13 ſhillings 4 pence for doing his office of one ſlain and murdered of the goods of the ſlayer and murderer; if they have none of the Town where he was ſlain the day, and was ſuffered to eſcape, 3 *H.* 7. *Lam. ibid.*

Mayors to have for ſealing:

Buſhels and other meaſures, a penny.

Weights, *viz.* a hundred weight, 1 pe

half a hundred, a half-penny; leſs a farthing: and taking above, they loſe 40 ſhill. 7 *H.* 7. *c.* 3. 11 *H.* 7. *c.* 4. *Lam* 437.

Parſon, Vicar, or Curate taking above four pence for entring into the Church-book licence to eat fleſh on fiſh daies, 5 *El. c.* 5.

Or above 2 pence for regiſtring a Teſtimony of any ſervant going from one place to another, 5 *El. ca.* 4. *Lam.* 435.

Ordinary or his ſcribe or regiſter that hath taken more for the probate of a teſtament or letters of adminiſtration, then 6 pence for the ſcribe for writing the probate of the teſtament that ſhall be brought written in parchment, and 6 pence for the adminiſtration where the goods be not above 5 pound; if above 5 pound not above 40 pound, then 2 ſhillings 6 pence for the ordinary, and 12 pence for the ſcribe; if above 40 pound, 2 ſhillings 6 pence for the Ordinary, and 2 ſhil. 6 pence for the ſcribe, or 1 peny for every 10 lines 10 inches in length, at the ſcribes election; and the like for every copy of a teſtament or inventory, or elſe after the rate of the lines as before, loſeth 10 li. and ſo much as is taken, to the party, 21 *H.* 8. *c.* 6. *Cro.* 61. a. *nu.* 52. *Lam.* 434.

Eſcheators fees, *vide* Eſcheators.

Receiver, Treaſurer, or Miniſter of the King that taketh of any that hath fee or penſion of the King, other fee then is given by ancient laws and ſtatutes, *viz.* 4 pence for paiment of every ſum, forfeiteth 6 ſhillings 8 pence, 33 *H.* 8. *c.* 39. 7 *E.* 6. 1. *Cro.* 58. a. *nu.* 9.

Taking above 4 pence for impounding one

distress, loseth 5 pound to the party grieved, besides such money as he shall take above the sum of four pence, 1 & 2 P. & M. c. 12. ix.

" A man attainted of trespass, cometh in " gratis, and findeth surety for his fine, he " shall pay no fees to the Sheriff or Gaoler, " Cro. 176. a. nu. 6. so of him that is indicted " before a Just. of Peace, and is committed " till he pay his fine.

" The officer is to take nothing of him a- " gainst whom process is granted to come be- " fore a Just. of Peace to finde surety for the " peace, Cro. 176. a. nu. 8.

Fees for a Justice of Peace are (ut dicitur) Cro. 176. a. nu. 9.

" For a recognizance for the peace, 2 shil.
" For a recog. to bail a prisoner, 2 shil.
" For a *Supersedeas* of the peace, 2 shil.
" For a warrant of the Peace under seal, 2 s.
" For release of the peace, 2 shil.
" For a warrant which concerneth not the " peace, 4 pence.
" For the recognizance of an Alehouse- " keeper, 12 pence, Cro. nu. 10. 5 E. 6. c. 25.
" *Vide plus*, Dal. 385.

Felo de se.

A man that kills himself, either with a meditated hatred against his own life, or out of distraction or other humour, is *felo de se*, and forfeiteth his goods real and personal, chattels to the King, and debts due upon specialty, and also upon simple contract, or without specialty, Coo. 4. 95. a Dal. 240.

" If

"Two fighting, the one of them falleth on "the ground, and draweth his knife, the other "falling upon him, doth also fall on the knife "& is slain, he is in a sort *felo de se*, *Dal.* 274. "*Cro.* 28. a. *m.* 7. *Pax. reg.* 122. b. *Sta.* 16. a.

An infant, or *non compos mentis*, killing himself, doth not forfeit, but a lunatick doth, *Dal. ibid. Lam.* 247.

All his goods shall be forfeited which he had at the time of the blow given, but not till his death be presented and found of record, *Dal. ib.*

He forfeiteth no lands, nor is his blood corrupted, *Dal. ibid.*

The enquiry of *felo de se* belongs to the Coroner: but if the Coroner cannot have sight of his body, as because cast into the Sea, or secretly buried, the Justices of P. may inquire thereof, and a presentment before them, intituleth the King to his goods, *Dal. ibid. Cro.* 5. 110. b.

Felony.

Felonies are either by the { Common law, Statute law.

By the Common law, all kind of homicide not warranted, Burglary, Theft, Burning of houses, Rescous, and Escapes, *Dal.* 238.

Vide their several titles.

Felonies by Statute.

The Kings sworn servant conspiring to destroy the King or any Lord of the Realm, or any sworn to the Kings Councel, or the

Steward, Treaſurer, or Controller of the Kings houſhold, 3 *H.*7. *c.* 14. *Dal.* 275.

Breaking of priſon by one being therein for felony, or a priſoner for felony, 1 *E.*2. *de priſonam frangent*, *Dal. ibid.*

And if he eſcape going to the Gaol, *Cro.* 49. b.

If under arreſt for felony or ſuſpition, whether in the Gaol or out, it is breaking of priſon, though he be not indicted of felony, *Cro.* 38. a. *nu.*1. *P.R.* 147.

A ſtranger breaketh the priſon, or openeth the ſtocks, or makes reſcous of one impriſoned or arreſted for felony, who eſcapeth, it is felony in them both, *Dal.*275. *Cro.*38.a.*nu.*1.

Quære, If a ſtranger diſturb the arreſting of a felon, *Dal. ibid. Fitz. Juſt. P. fol.* 114. *Law.*229.

Reſcuing a Priſoner going to execution is felony, *Dal. ibid.*

Gaoler, Conſtable, or other having a priſoner under arreſt for felony, voluntarily ſuffereth him to eſcape, it is felony only in him that ſuffereth the eſcape, *Dal. ibid. Lam.*229.

If the priſoner eſcape by negligence of his keeper, it is felony only in the priſoner, *Dal. ibid.*

Eſcape before arreſt is no felony, but the officer may be endited and fined, *Dal.*276. *Law.* 230. *Cro.*39. a. *nu.* 5.

Buggery with mankind or beaſt.

Burning of houſes or ſtacks of corn.

Congregations and confederacies holden by Maſons.

Cutting

Cutting out of tongues, or putting out eyes.
Cutting Powdike, or bank in Marſh-land.
Conjuration or invocation of evil ſpirits, 1 *Jac.* 12.
Embezeling the Kings ordnance, armour, &c. to the value of 20 ſhillings, though at ſeveral times, 31 *El.* 4. *Dal.* 287.
Embezeling of any record, writ, &c. 8 *H.* 6. *c.* 12. *Dal. ibid.* } *Theſe two be-*
Raſing of a record is fineable at the Kings will, &c. } *long not to Juſtices of the P.* 8 *R.* 2. *c.* 4.
Forging of evidences, &c. the ſecond time, 5 *El. c.* 14.
Gaoler enforcing his Priſoner to become an approver.
Hawks embezelled, and not brought to the Sheriff.
Hawks concealed, or ſtollen from the owner.
Hunting Deer or Conies in the night, and upon examination concealing the offence, or diſobeying the arreſt for ſuch offence.
Taking a tame beaſt or other thing in a park by way of robbery.
Marrying a ſecond husband or wife, the firſt living, 1 *Jac. c.* 11.
Multiplication of gold or ſilver.
Infected with the plague, going into company contrary to command, 1 *Jac. c.* 31.
Wilful poiſoning, if the party die within a year and a day after.
To receive, relieve, or maintain Popiſh Prieſts.

Recuſants refuſing to abjure, or return after departure.

Purveyour taking for the Kings houſe any thing above twelve pence.

1. Without warrant under the great ſeal, *vide Dal.* 284.

2. Buying any thing in any other manner then is contained in their warrant.

3. Taking any carriage in any other manner then is compriſed in their commiſſion.

4. Shall carry away any thing againſt the owners will, without paying or agreeing for the ſame.

5. Shall not make his proviſion and purveyance by the teſtimony and apprizement of the Conſtable and four neighbours ſworn, if the purveyour and owner cannot agree, and ſhall not deliver Tallies or Indentures ſealed with his ſeal touching the ſame.

6. Or ſhall take more victuals or carriages, then he ſhall deliver unto the Kings houſe.

7. Or take ſheep in wool betwixt Eaſter and Midſummer at ſmall prices, or more then be ſufficient for the Kings houſe, and carry them to his own, and ſhear them.

In every of theſe caſes it ſeemeth to be felony in ſuch purveyour, their deputy and ſervants.

A Cater of any ſubject or officer taking any thing againſt the owners conſent, and not paying preſently, 36 *E.* 3. *c.* 6. 7 *R.* 2. *c.* 8. 23 *H.* 6. *c.* 14. *Dal.* 287. *Cro.* 48. *a.*

Incorrigible Rogues baniſhed the Realm, and returning without licence, 39 *El. c.* 4.

Robbing

Robbing houſe, barn, or ſtable in the day, to the value of 5 ſhillings, though no body be within, 39 *El. c.* 15. no Clergy.

Robbing any houſe by day or by night, any perſon being therein, and thereby put in fear, *ibid.* without Clergy.

Robbing any perſon in part of his dwelling, any of his houſhold being within, *ibid.* without Clergy.

To rob any Booth in Fair or Market, any perſon thereto belonging being within ſleeping or waking, *ibid.* ſans Clergy.

Servant (other then an apprentice) to whom mony, goods, or chattels, &c. are delivered to keep by the maſter or miſtreſs, to the value of forty ſhil going away therewith, or converting them to his own uſe, to the intent to ſell the ſame, or defraud his maſter or miſtreſs, 21 *H.* 8. *cap.* 7. 5 *El. ca.* 13. *Dal.* 264.

Souldiers going out of the Realm to ſerve a forrein Prince, not having firſt taken the oath of allegeance, 3 *Jac. ci*4. *Dal.* 284.

A Gentleman, or of higher degree, Captain, or other Officer in Camp, going to ſerve a forreiner before he is bound with two ſureties to the King, not to be reconciled to the Pope, &c. nor to make nor conſent to any conſpiracy againſt the King, 3 *Jac. c.* 4.

Souldiers having taken preſt-mony, not going with their Captain; or being in ſervice, departing without licence, 18 *H.* 6. *c.* 19. *Cook* 6. 27. 7 *H.* 7. *c.* 2. 3 *H.* 8. *c.* 5.

Mariners and Gunners taking preſt-mony to ſerve the King, and departing without licence, 5 *El. c.* 5.

Souldiers

Souldiers and Marriners which ſettle not themſelves to ſome good courſe of life, but wander idly, 39 *El. c.*17.

Souldiers and Mariners landing, and not having a Teſtimonial from ſome Juſtice of Peace near the landing, *ibid.*

2. Or exceeding the time limited wilfully fourteen daies. *Vide* 43 *El.c.*3. that they ſhall be puniſhed as Rogues.

3. Or forge, or have forged Teſtimonial, knowing it to be forged.

4. Or being retained in ſervice after arraignment, doth depart within the year without the Maſters licence, 39 *El. c.* 17.

"In all theſe former caſes, ſee the ſtat. "43 *El. c.* 3. That Souldiers and Mariners "begging or counterfeiting a certificate from "their Captain, &c. ſhall be adjudged and "puniſhed as Rogues, *Dal.*285. *Vide* Rogues.

Tranſporting live ſheep, the ſecond offence is felony, 8 *El.c.*3.

Raviſhing a woman with force, though conſenting afterward, 13 *E.*1.3.*W.*2. 18 *El.c.*6.

All abettors in rape are principals, *Dal.*289. *Cro.* 47: b.

To raviſh a harlot againſt her will, is rape; *ibid.*

To take any maid, widow, or wife having lands or goods, or being heir apparent to her anceſtor, againſt her will, unlawfully.

And to receive any ſo taken, knowing thereof, or to procure and abet the ſame, 3 *H.*7. c. 2. *Dal. Cro. ibid.*

To abuſe a woman carnally under 10 years of age, 18 *El. c.*6.

To

To take a mans wife with her husbands goods againſt her will, or her husbands, 13 *E.* 1. 34. *West.* 2. *Stamf.* 94 *Dal.* 290. *Cro.* 35. a. *nu.* 2.

Felonioufly to take goods out of any Church or Chappel. *Lam.* 420.

A woman delivered of a baſtard, doth by drowning or ſecret burying thereof by her ſelf, or other, conceal the death thereof, ſo that it may not come to light: if it were dead born, or alive, it is murder in the mother, except ſhe can prove by one witneſs that the child was born dead. 21 *Jac. c.* 27. *Dal.* 290.

To acknowledg any fine, recovery, deed inrolled, ſtatute, recognizance, bail, or judgment in the name of another not privy to the ſame, is felony without Clergy. 21 *Jac. c.* 26. *Dal.* 284.

"Felony done in one Kings dayes may be "tryed in another Kings time. *Cro.* 37. a. *nu.* 31. *Dal.* 297.

"A felony is done in one county, and the "felon flyeth into another, and is there taken, "he is to be committed to the gaol of the "county where he was taken, and be removed "by writ to the gaol of the county where the "felony was done. *Dal.* 298.

"For ſtealing goods in one county, and "carrying them into another county, the fe-"lon may be indicted in either county. But "for robbery the indictment muſt be in the "county where the robbery was. *Dal.* 298. *Bro. Cor.* 140 *indict.* 26.

"One ſtealeth ſtolen goods, the owner "may

" may indict the first or the second. *Dal.* 298.

" Any man may prosecute for stealing *bona* " *ignoti*. *Dal. ibid.*

" If the owner will not charge the felon, any " other (after proclamation made, *If any will* " *inform for the King*) may safely inform, " indict, and give evidence. *Dal.* 298. But a " Justice of Peace hearing of any that can " inform, may send for him, examine him, " and bind him to give evidence. *Dal.* 298.

Felony of his own goods, *Vide* Theft, Ferrets, *vide* Hunting.

Fewell.

One Justice of Peace may set on the pillory, in the next Market-town to the place of offence, any person convicted of breaking the assise of fewel, and not able to pay the forfeiture; there to be at eleven of the clock on the Market-day, with a billet or faggot bound to some part of his body. *Quære*, whether one Justice may convict him alone. 7 *E.6. cap.7. Lam.*196.

Fines.

Fine taketh his name of the Latine *finis*, for that it maketh an end with the King for the imprisonment laid upon the offender, for the offence committed against him. *Lam.*574.

Upon paiment of the fine, or upon pledges found by a recognizance to pay it, the offender ought to be delivered. *Lam. ibid.*

The

The aſſeſsment of fine belongeth to the Juſtices before whom the conviction is lawfully had. *Lam.* 576.

Stander by when a man was ſlain, is to be impriſoned till he make his fine, becauſe he did not his beſt to attach the murderer: ſo of other felonies. *Lam.* 132, 289.

Fine upon a forcible entry or detainer upon offenders convicted of record by a Juſtice of Peace, and by him committed to the Gaol, ſhall be aſſeſſed by the ſame Juſtice, and upon bonds with ſureties he may enlarge them, *Tamen quære*; and eſtreat it, and ſend it into the Exchequer: but it is beſt to leave the fine to the diſcretion of the Kings Bench. *Lam.* 158, 159. *Dal.* 58.

Upon conviction for offences, where no fine certain is limited, no fine can be aſſeſſed till the offender be brought in by *Capias pro fine*, or otherwiſe, unleſs it be for Alehouſes and Highwayes. *Lam.* 573.

Where any ſtatute ſpeaketh of fine and ranſome, the ranſome ought to be at leaſt treble the fine. *Lam.* 575. The opinion of Sir *Edward Coke* is, that fine and ranſome are all one, *vid.* well diſcuſſed. *Coke inſtit.* 127. a.

Where the ſtatute maketh an offence fineable in general terms, or at the Kings will, the Juſtices of Peace before whom the conviction is had, may aſſeſs the fine, which is fitteſt to be done in open Seſſions. *Lam.* 576.

Fines upon the Statute of tiles, of croſsbows, and of alehouſes by expreſs words of the ſtatute, may not be altered. *Lam.* 578.

Fines

Fines muſt be reaſonable and juſt, according to the quality of the offence. 34 *Ed.* 3. *cap.* 1. *Lam.* 577.

After one is taken by a *Capias pro fine*, the Juſtices of Peace are to aſſeſs the fine by their diſcretion, and to deliver the party. *Lamb.* 574.

Fines of Rioters, *vide* Riots.

Fines of Brewer, Baker, Tipler, *vide* Aſſiſe of Bread.

Fiſh.

Stealers of fiſh out of ponds, and cutters of ponds heads, are to be bound to the good behaviour, and three months impriſonment, and to the party grieved his treble damages. 5 *El.* 21. *Lam.* 446. See 3 *Jac.* 13.

If any caſt nets into waters, by which the fry of fiſh may be taken, or take Salmons betwixt the nativity of Mary and S. Martin, or young Salmons betwixt the midſt of April and Midſummer, one Juſtice may puniſh them for the firſt offence, by burning their nets and engines; for the ſecond, by three months impriſonment; for the third, by one years impriſonment; and for any of them, by fine at the diſcretion of the Juſtice. 17 *R.* 2. *c.* 9. *Lam.* 190. 454. 576.

Forfeitures upon the ſtat. 3 *Jac. c.* 12. where any offence is committed, in deſtroying the ſpawn or brood of ſea-fiſh, may be levied by diſtreſs and ſale of the offendors goods, by warrant from one Juſtice of Peace to the Conſtables

ſtables or Church-wardens. 3 *Jac. cap.* 12. the forfeiture given is 10 ſhillings, the one moyety to the poor, &c. the other to the perſon that ſhall ſue for the ſame.

He that ſhall by preaching, teaching, writing, or ſhall notify upon open ſpeech, that the eating of fiſh, or forbearing of fleſh upon any dayes now uſually obſerved for fiſh-dayes, is for neceſſity of ſalvation of ſouls, or is the ſervice of God, otherwiſe then other publick laws be, ſhall be puniſhed as ſpreaders of falſe news are and ought, &c. 5 *El. c.* 5. 1 *Jac. c.* 29. *Law.* 442.

Fiſh-dayes.

Any, except aged, ſick, with child, or licenſed, eating fleſh in Lent, or on fiſh-days, loſeth 20 ſhillings, and one months impriſonment. 5 *El. c.* 5. 27 *El. c.* 11. *Lam.* 458. 35 *El. c.* 7. 1 *Jac. c.* 29.

Taverners, Inne-keepers, common Tablinghouſe, Tipler, or Alehouſe-keeper, offending againſt the ſtatutes 5 *El. c.* 5. & 1 *Jac. c.* 29. for killing, dreſſing, and eating of fleſh, is to loſe the fleſh, and the penalty of 5 *El. c.* 5. which is 3 pounds. 1 *Jac.* 29. *Lam.* 458.

Forfeiture upon the Statute 1 *Jac. c.* 29 for eating of fleſh, except ſuch as be taken by the Juſtice of Peace, Mayors, Bayliffs, head officers, or Conſtables, are to be equally divided betwixt the King and the Informer. 1 *Jac. c.* 29 expired.

Licence granted to ſick perſons to eat fleſh on fiſh-dayes, ſhall be no warrant for them to eat

eat beef, mutton, veal, pork, or bacon. 1 *Jac* c 29. expired.

Butcher or other, though licensed, killing in Lent to sell any Ox, beef hog, calf, or mutton, except three dayes next before Easter, or Oxen or beef for victualling of ships, loseth the meat or value. 1 *Jac.c.*29. expired.

Justice of Peace, or head-officer of corporations, or Constables of Towns, may in Lent search Victuallers houses suspected of dressing flesh; and finding any flesh, beef, hog, calf, or mutton, may seise on it, and give it to the poor. 1 *Jac.c.*29.EXP.

"Bishop of the Dioceſs, Parson, Vicar, or "Curate of the Parish where one is sick, may "grant license for eating of flesh, which must "be signed with the hand of the Bishop, "Parson, &c. and endure no longer then the "sickness. 5 *El.c.*5.

"Any person granting license without "need, loseth five marks, and the license is void, *ibid.*

Flax.

Forfeiture due to the Informer upon the statute of flax and hemp to be levied by what Proceſs the Justice will, 24 *H.*8.*c.*4. *Lam.*584. but 24 *H.*8.*c.*4. is repealed by 35 *El.c.*7.

Fleſh, *vide* Fish-dayes.
Forrein power, *vide* Treason.
Forrein plea, *vide* Tryal.

Force.

Force.

Every treſpaſs in judgment of law is a force, and the action may be, *quare vi & armis. Dal.* 199. *Lam.* 141.

That which is properly force, is either { *Manu forti*, or *Multitudine.*

Manu forti, is violence offered to the perſon of another by deed or word. *Dal.* 199.

By deed, as actual violence, or to be furniſhed with offenſive weapons not uſually born, *ibid.*

Any thing which a man taketh in his hand to throw it at another, may be ſaid to be armour. *Cro.* 74. b.

Multitudine, where there be two or three in a company, or more. *Dal.* 199.

What ſhall be ſaid to enter with force.

Forcible entry muſt be an actual entry. *Dal.* 199.

If one or more come weaponed, eſpecially with weapons unuſually worn, and violently enter into an houſe or Land. *Lam.* 142. *Dal.* 199.

Much more being entred, if he or they offer violence, or fear of harm to any in poſſeſſion, or drive any out of poſſeſſion. *Dal. ib. Lam.* 142.

Many come to do a force, and one only uſeth force, all are guilty. *Dal.* 204. *Lam.* 143.

To enter peaceably and forcibly to put out another. *Dal. ibid. Lam. ibid.*

To enter peaceably, and after to offer violence, threatnings, or fear of harm to one in poſſeſſion, with intent to get him out, though he get him not out. *Dal. ibid. Lam. ibid.*

Entring peaceably, and ſaying they will hold although they dye for it. *Lam.* 146. *Dal.* 200.

To enter peaceably with weapons (not uſually born by them) to open an houſe, or grounds. *Dal. ibid.*

The Maſter entring with more ſervants than uſual, *ibid.*

A treſpaſs made *manu forti*, or *cum multitudine*, though it be but to cut or take away another mans corn, graſs, or goods, or fell or crop wood, or to do any other treſpaſs, though the party be not put out of poſſeſſion, yet it ſeemeth forcible entry puniſhable by the ſtatutes: but otherwiſe if the entry be peaceable, yet it is diſſeiſing with force. *Lam.* 143. *Dal.* 200.

To enter peaceably, and after entry, by force or violence to cut corn, graſs, wood, &c. or carry away anothers goods, is force. *Dal.* 200. *Cro.* 70. a.

To diſtrain for rent due or not due with force, doth countervail a force. *Dal. ibid. Lam.* 144.

Divers enter where the entry is not lawful, and all ſave one demean themſelves peaceably, and one only entreth with force, or after entry uſeth force, it is forcible entry in all. *Cro.* 22. a. *nu.* 15. 24. b. *nu.* 43. 34. b. *nu.* 15. *Lam.* 143. *Dal.* 217.

In all theſe caſes of treſpaſs, only the Juſtice of Peace may, as it ſeemeth, remove the force,

and

and upon view imprison and fine. Dal. 200, 202. *and upon view the Justice may instantly commit the offendor, and record the force.* Co. l. 8. f. 120.

Forcible entry by words.

To enter peaceably, and then to offer by threatning to kill the disseisee if he re-enter. *Dal.* 200.

What is not force.

To enter by fair means, his entry being lawful, and perswade them within to come out, and the door being open, or shut by the latch, to enter without multitude, or offensive weapons, or other violence. *Dal.* 201.

To enter peaceably and quietly, getting other out, and quietly to hold it. *Dal. ibid.*

To enter peaceably into a house, and finding armour or weapons, not to remove them. *Lam.* 145.

To take a man being out of his house, and imprison him, and in the mean time to send another peaceably to enter, is no force. *Lam.* 146. *Dal.* 201.

He that only agreeth to a forcible entry made to his use, is only disseisor. *Dal.* 204.

What shall be said a forcible detainer.

Forcible detainer is of lands and tenements not of the person. *Lam.* 146. *Dal.* 201.

If entry be peaceable, and the detainer forcible, it is punishable, except quiet possession had been had for three years. *Dal. ibid.*

To

To deny a Juſtice of Peace to enter (upon ſuppoſal of a forcible detainer) is forcible detainer, though it be but by one perſon, and no weapons ſhewed. *Dal. ibid. P. R.* 41. *Lam.* 145. *Cro.* 70. b. *nu.* 40.

If the Juſtice enter, and findeth any armed, or any armour or unuſual weapons lying by them, or find more then the ordinary family. *Lam.* 145. *Dal* 202.

To enter peaceably, and after to bring in more weapons, or uſe the weapons found in the houſe to defend his poſſeſſion, or place ſome with weapons in a houſe adjoyning ready to aſſail the enterers. *Lam.* 145. *Dal.* 202.

The diſſeiſor foreſtalleth the way of the diſſeiſed with force, ſo that he dare not come near. *Dal.* 202. *Lam.* 145. *Cro.* 69. b. *nu.* 26.

To keep cattel by force where he hath no common, the Juſtice may impriſon and fine, but not make reſtitution. *Dal. ibid. Cro. ibid. P. R.* 39.

To detain a houſe mortgaged by force from the mortgager, is forcible detainer. *Dal.* 203.

What is forcible detainer by word.

To enter peaceably, and after to threaten to kill the diſſeiſed if he come again. *Dal.* 202. *Lam.* 146.

It ſeemeth to amount to a forcible detainer to threaten to maim, beat, or do bodily hurt to the diſſeiſed if he come again. *Dal. ibid.* for that death may enſue upon ſuch beating or hurt.

What is not forcible detainer.

One entreth peaceably into a house, and finding armour or weapons, doth not remove them. *Lam.*145.

What is not forcible detainer by word.

To threaten to burn his house or spoil his goods, to deny to open the doors, to deny to go out. *Dal.*202.

What is forcible detainer of Rent.

The Tenant resisteth so forcibly, that the owner cannot distrain for his rent, nor use his common of pasture. *Dal.*203. *Lam.*146. *Cro.*70. a. *pl.*27. *P.R.*39.

The tenant forestalleth the way by force and arms, or threatneth him that hath the rent or common, that he dareth not distrain or use his common. *ibid.*

The tenant maketh rescous of the distress with force and arms. *Dalt. ibid. Cro.* 69. a. *pl.* 26.

In these cases of rent or common, the Justice may remove the force, record it upon view, imprison and fine, but can award no restitution. Dal. ibid.

What persons may make a force.

One alone, if it be with offensive weapons or turbulent behaviour, to the affray of others. *Lam.*203. *Lam.*143.

An infant of the age of 18. *Dal. ib. Cro.*69. a. and so he may though he be under 18.

A feme covert may by her own act make a forcible entry or detainer, and she may be imprisoned and fined, but the fine cannot be levied on the husband. *Dal.* 204.

Consent.

If one command or counsel others to a force, and be present, though he do nothing, he is a principal. *Dal.* 204. but if absent, a disseisor.

Divers enter, one only committeth force, all are guilty, *ibid. Cro.* 22. a. *nu.* 15. 24. b. *nu.* 43, 34. b. *nu.* 15. *Lam.* 143.

Who cannot be put out.

The King cannot be disseised, therefore an endictment upon the Statute 8 *H.* 6. for the King is not good; neither can the Kings Farmer prefer a Bill of Enditement upon the said statute, but must have an Information in the Exchequer. *Dal.* 205. *Cro.* 69. a. *nu.* 13.

Where one may hold with force.

Where one hath peaceably entred, and after continued in quiet possession without interruption for three years together. *Lam.* 159. *Dal.* 210, 211. and may hire strangers to maintain his possession, and have his company in armour. *Dal. ibid. Cro.* 71. a. b. but he may not resist the Justice of Peace that cometh to view.

Upon enditement of forcible holding, the plea of three years lawful possession next before, avoideth imprisonment, fine, and restitution. *Dal.* 211.

But

But it holdeth not,

1. If the entry were forcible, though the holding peaceable.

2. If the holding were forcible, though the entry peaceable.

3. If a disseisor have continued peaceably 3 years. *Quære* if he shall be helped by 8 *H.* 6. or 31 *El. c.* 11. If a disseiser have forcibly continued his possession twenty yerrs, he may be endicted upon 8 *H.6.* and the Justice may make restitution, 14 *H.7. c.*28. *Lam.*160. *Dal.* 211. *Cro.*71.a. *nu.*49.

4. If the possession of three years have been interrupted, *Cro.*71.a. *Lam.*162. *Dal.*211.

A disseisor quietly holdeth three years, and after the disseisee entreth or maketh claim, the disseisee re-entring, cannot hold with force, for he is in upon a new disseising, *Dalton* 212.

A lawful possessor, after twenty years possession is outed, he can neither re-enter, nor hold with force, *ibid.*

What force is lawful.

Force used by the Kings Officers for the due execution or advancement of Justice, or of the Judgment of the law: as,

1. To pursue, apprehend, and carry to prison offenders in treason, felony, or other great crimes.

2. A Sheriff or his Officers to apprehend by virtue of the Kings Writ.

3. A Justice removing unlawful entries, or holding of possessions, and repressing Riots, *Dal* 208.

4. Juſtice, Sheriff, Conſtables, or Coroners, may uſe force in apprehending or impriſoning ſuch as in their preſence attempt to diſturb or break the Peace.

5. It is lawful by force to break open dours, to arreſt offenders within, if the Officer cannot otherwiſe enter.

Note, that the Officer is firſt to ſignifie the cauſe of his coming, before he attempt to break open the doors, Dal. 209. as,

Firſt, for treaſon, felony, or ſuſpition of felony, *Cro.* 170. b.

2. Where one hath dangerouſly wounded another, *Cro.* 131. a.

3. An affray being in the houſe, *Cro.* 146. b.

4. Upon a forcible entry or detainer found by inquiſition, *Dal.* 208.

5. Upon a *Capias utlegatum* in perſonal action, or *Capias pro fine* directed to the Sheriff, *Cro.* 170. b.

6. Upon Warrant or Proceſs for attaching a Popiſh Recuſant excommunicate, 3 *Jac.* c. 4.

7. Upon a Warrant for the peace or good behaviour, *Dal.* 209, 333. but *Cro.* 176. b. maketh a *Quære*.

8. Upon recovery in a real action, or *ejectione firmæ*, but not to execute the Kings Proceſs upon the body or goods of any perſon at the ſuit of any ſubject, *Dal.* 209.

9. In caſes where the King is party, *ibid.*

Forcible defence is lawful.

1. For every man to keep his houſe to himſelf, his family and goods, as his caſtle, as well

for defence against injury, as for his repose, *Vide plus* Houses, *Dal.* 209.

2. In defence of husband, wife, father, mother, or master, *Dal.* 184.

3. Father or mother in defence of the child within age, *Dal. ibid.*

4. In defence of my Goods or my Land, *Dal. ibid.*

"5. An heir or feoffee may keep possession "by force, if they and their ancestors or feoffors, or they whose estate they have, have "been in peaceable possession three years, "*Dal.* 210.

In these cases he that attempteth may be disturbed; and if he attempt to assault or lame me, I may beat him again, as well in defence of my person as possessions, but not kill him, *Dal. ibid.*

"If one will take my Goods, I must first lay "my hands on him, and disturb him; if he "will not desist, I may beat him, *Dal.* 185.

What Justices of Peace are to doe in forcible entry or detainer.

Every Justice upon complaint or notice given, ought at the cost of the party grieved to do execution: *viz.*

1. He must go the place, *Dal.* 57. *Lam.* 147.

2. Take sufficient power of the County, or of the Town, and the Sheriff also (if need be) as well to arrest offenders, as also for removing of the force, and for conveying them to the Gaol, *Dal. ibid. Lam. ibid.*

"Whosoever of that County shall refuse "to give his attendance, and assist the Just. "shall be imprisoned, and make fine, *Dal.56.* "15 *R.2. cap.* 2.

3. Arrest and remove all offenders, and take their weapons, and prize them for the King, *Dal. ibid.*

If the doors be shut, and entrance denied, he may break open the house, *Dal.57. Quer.*

The Justice cannot arrest or remove them, if he find no force, except by enquiry, *Dal. ib.*

4. The Justice ought to make a record of the force, and either keep it by him, or indent it, and certifie one part either into the Kings Bench, or the Clark of the Peace, and keep the other, *Dal. ibid.*

"One Justice of Peace upon his own view "of forcible detainer, may record the same "by 15 *R.2.c.2. Cro.61.b. nu.9.*

"The Justice or Justices recording a force "upon his or their view, may not put the "party put out into possession, but must first "enquire by a Jury, and the force being found "put the party outed into possession, *Dal.59.*

The record of the Justice is sufficient conviction of the offender, and is not traversible, *ibid.*

5. The Justice ought to commit immediately to the next Gaol, those which he findeth continuing the force, until they pay their fine, *ibid.* & 115. or forfeit an 100 pounds, *ibid.*

But such force must be in the presence or view of the Justices.

6. The Justices, or some of them that see the

the force, are the proper Judges of that offence, and may assess the fine, but it must be upon every one severally, *Dal.* 115. and is to be estreated into the Exchequer; upon which assessing and estreating, the party is to be delivered, *Dal.* 58. *Lam.* 159.

And so upon paiment of the fine to the Justice, or recognizance for paiment, *Dal.* 58. *vide Lam.* 159

Quære, for the Sheriff is countable for all fines: and *Lamb.* adviseth to refer it over to the Kings Bench, *Lam.* 159.

Or the Justice may record the force, commit the offenders, and certifie the record to the Justice of Assize, or to the Sessions, and there the offenders be fined, *Dal.* 58.

But ought more properly to be assessed by them that record the force, *Dal.* 91. and to be of value.

Or the Justice may certifie the record into the Kings Bench, refer the fine thither, *Dalton* 58. which *Lambert* thinketh the best course, *Lam.* 195.

The fines must be reasonable, *secundùm quantitatem & qualitatem delicti*, *Lam.* 577.

7. The force ought to be inquired of in some good place or town, near where the force was, *Dal.* 58. and that within a month, if it be a riot, *Dal.* 115. One Justice may enquire, *Dal.* 58.

Enquiry may be though the offenders be not present, or though the Justice go not to see the place where the force is, *Dal.* 58. *Lambert* 152.

Without enquiry there can be no reſtitution, *Dal.*59. *Cro.*161.b. 164. a.

Upon enquiry making, the Juſtice muſt direct his precept to the Sheriff to ſummon 24 of 40 ſhil. a year land *per annum*, *Dal.*213. *vid.* the form, *Cro.*132.b. *Dal.*400.

"If the Sheriff do not duly execute the "Juſtices precept for the returning of a Ju"ry, he forfeiteth 10 l. 8 *H.6.c.*9. *Dal.*58.

Upon default, the Juſtice may award an *alias* and *pluries infinitè* till they come.

The Sheriff, at the day of the ſecond precept, muſt return 40 ſhil. in iſſues upon every one, at the third Writ five pound, and at every day after the double, 8 *H.6.c.*9.

If any Jurour have not 40 ſhillings land, yet the enditement is good for the King. *Quere* if there ſhall be reſtitution, *Lam.*252. *Dalton* 213.

Returning of ſmaller iſſues then the ſtatute, hindreth not the enquiry, *Dal. ibid. Lam. ibid.*

8. Upon enquiry, the Juſtice may make reſtitution, wherein the Juſtice needeth not to examine the title, *Dal.*214. *Lam.* 156.

No reſtitution before inquiſition, *ibid. Cro.* 161.b. 164.a. *Dal.*214.

In the enditement not only the entry, but alſo the putting out muſt be, and *& adhuc extra tenent*, *Lam.* 153. for lack of theſe words no reſtitution can be made, *Dal.* 214. *Cro.* 163. b. *Lam.*153.

The enditement muſt be good, both in matter and form, *Dal.*225. the words *manu forti*, or *cum multitudine*, are neceſſary, *ibid.*

The

The enditement muſt expreſs the quality of the thing, whether meſſuage, cottage, &c. *tenementum* may extend to either, and ſo in certain, *Dal.* 214.

If reſtitution be made by a Juſtice upon an inſufficient inditement, the Kings Bench will reſtore the other, *Dal.* 215. *Cro.* 162. a.

If errour be in the enditement, any two of theſe Juſtices which were at the taking of the enditement, upon prayer of the party, may grant a *ſuperſedeas* to ſtay reſtitution, if reſtitution be not made, *Dal.* 215. *Cro.* 165. a.

But no Juſtice not preſent can grant a *ſuperſedeas*, *ibid.*

The Juſtice may make reſtitution, or give warrant to the Sheriff, or certifie into the Kings Bench, and leave the award of reſtitution to that Court, *Dal.* 216. *Lam.* 156.

None can grant reſtitution, but they before whom the force was found, *Dal.* 216. except the Kings Bench.

None can perſonally reſtore the party, but he that took the enquiry, *Dal.* 216. And that by precept to the Sheriff, *Lam.* 158.

After enquiry, the Juſtice of Peace may break into the houſe by force, and put the ejected into poſſeſſion, *Dal.* 59.

If reſtitution be made without enquiry, it is puniſhable in the Star-chamber, *Dal.* 45.

Reſtitution muſt only be made to him that was put out, *Dal.* 159, 213. *Lam.* 153.

Reſtitution is to be made only of houſes and land, *Dal.* 214. but not of rent, common, or advowſon, *Dal.* 59.

Reſtitution may be made notwithſtanding a traverſe, *Dal.* 60. but upon tender of traverſe, the ſafeſt way for the Juſtice is to certifie the preſentment into the Kings Bench, *ibid.*

If the Juſtice upon complaint or notice given of a force, do not remove the force, record it, and commit the offenders, it is puniſhable in the Star-chamber, *Dal.* 60.

The offenders being gone, the Juſtice may ſend his Warrant, and commit them till they find ſurety of their good behaviour, *Dal.* 60.

If force be made by three, it is a riot, *Dal.* 61.

The proceeding upon a Writ upon the Statute of Northampton, 2 *Ed.* 3. 3.

1. The Juſtice of Peace to whom this Writ is delivered, is but a miniſter therein, and coming to the place where the force is ſuppoſed, by the Writ he may cauſe 3 *O-yes*, and then make proclamation for ſilence, *p out Dalton* 61. *Cro.* 72. a. b. *Lam.* 168.

2. Then he may read or cauſe the Writ to be read, or declare the effect thereof.

3 Then let three *O-yes* be made, and make proclamation again for ſilence, *prout D.* 1. 61. *Cro.* 72. a. *Lam.* 169.

4. Either enter and ſearch for armour, or enquire by Jury, *Dal.* 62. *Lam. ibid.*

All that remain after proclamation, are to be impriſoned, and the armour apprized, *ibid.*

If upon proclamation they depart, they are not to be impriſoned.

The

The execution of the Statute of Northampton *without Writ.*

Every Juſtice of Peace may execute it *ex officio* without Writ, *Dal.* 62. *Cro.*72.a.

The difference in the manner of execution is, that without Writ there needeth no proclamation nor certificate into the Chancery, but the Juſtice may enter, ſearch, commit the offenders there found, apprize the armor, record all what he ſhall do, and thereof ſend an eſtreat into the Exchequer, *D.*62.*Cr.ib.L.*171.b.

The Juſtice cannot make reſtitution to the party outed, but only remove the force, *ibid. Lam.*172.

Of cauſes to ſtay granting of reſtitution, vide Dal. 218.

Forfeitures of a Recognizance taken for the Peace.

Whatſoever is a breach of the Peace, the ſame is a forfeiture of the Recognizance, *Dal.* 181. as,

1. To threaten a man to his face to beat or kill him, *Cro.*136.b. *Lam.*115. but not if he be abſent, *Dal.* 152.

2. To ſtrike at, or offer to ſtrike at a man, though he hit him not.

3. All affraies, malicious and violent ſtriking, or other miſ-intreatings of the perſon of another, *Dal.*181. *Lam.*127.

4. To go with company or weapons unuſual, *Dal. ibid. Cro.*137. a. *Lam.*126.

5. To command or procure another to break the peace, and if it be done in deed, *Lam.*115. *Dal.*182. *Cro.*137. a.

6. Impriſoning or arreſting another without warrant, *Lam.*127. *Dal.* 182.

To thruſt one into the water, whereby he is in danger of drowning, *ibid.*

To raviſh a woman againſt her will, *ibid.*

To commit burglary, robbery, murder, man ſlaughter, or do any treaſon againſt the perſon of the King, *Lam.* 127. *Dal.*182.

To be riotouſly aſſembled.

The act that breedeth the forfeiture of a recognizance of the peace, muſt be done unto the perſon of another, *Dal.*182.

Vide plus Recognizance, *vide plus* Breach of the Peace, and Fines.

One committed for petty larceny, and convicted thereof, ſhall forfeit his goods, *Lam.* 273. *Dal.*234. *Cro.*36.b.*nu.*20.

Forfeitures upon ſtatutes, *vide* Several ſtatutes.

Forgery.

Second forgery of deeds concerning anothers land after a former conviction is felony, 5 *Eliz.*14. but not enquirable by the Juſtices of Peace, *Dal.*288. *Cro.* 56. b. *Lam.*549.

Forrein Plea.

One indicted of petty treaſon, murder, or other felony, pleadeth a forrein Plea triable by

by Jury; it ſhall be tried before the Juſtices before whom he was indicted, and by the Jurous of the ſame County, 22 *H.*8.*c.*14. 32 *H.* 8.*cap.*3. *Lam.* 552.

Forreſter.

Forreſter, Warrener, or Parker, after Hue and Cry to yield, killeth any man in his office making reſiſtance, it is juſtifiable, 21 *E.*1.*de malefactoribus in Parcis*, *Lam.*235. *Dal.*255.

Foreſtalling and Foreſtallers.

Foreſtaller is he that buyeth or contracteth for any victuals or wares before they come to the Market, Fair, or Port, or moveth the party to enhaunce the price, or not to bring them to the Market, Fair, or Port, *Lam.*450.

Foreſtaller convicted before the Juſtices of Peace at the Quarter-Seſſions by examination of two witneſſes, or preſentment for foreſtalling, for the offence ſhall for the firſt time,

1. Loſe the Goods, and be impriſoned two months without bail or mainprize.

2. For the ſecond loſe double the Goods, and be impriſoned for ſix moneths.

3. For the third loſe all his goods, ſtand in the pillory, and be impriſoned during the Kings pleaſure, 5 *E.*6.*c.*14. *Lam.*570.

The moiety of the forfeiture upon the Statute of foreſtallers due unto the party, is to be levied by *Fieri facias* or *Capias*, to be awarded by the Juſtices of Peace, *Lam.*584.

Flowers

Fowlers and Fowling.

Shooter, taker, or deſtroyer by guns, bows, ſetting-dogs, nets, or other engines, of any Pheſant, Partridge, Pigeon, Heron, Mallard, Duck, Teal, Wigeon, Growſe, Heathcock, Moorgame, or ſuch fowls, upon conviction by confeſſion, or oath of two witneſſes before two Juſtices of Peace, where the offence or apprehenſion is, to be impriſoned three months without bail, unleſs he pay to the Churchwardens of one of the places, to the uſe of the poor, 20 ſhillings for every Pheſant, and alſo for every egge of Pheſant, Partridge, or Swan taken or deſtroyed, or after one month of his commitment become bound with two ſureties in recognizance of twenty pound, never to do the like, the ſame recognizance to be returned to the Quarter Seſſions, 1 *Jac. cap.* 27, *Lam.*334. *Dal.*89. 7 *Jac.c.*11.

Vide Partridges and Pheſants.

Games, *vide* Unlawful Games.

Gaol, Gaoler.

GAoler or Sheriff may make a Gaol of his own houſe; ſo cannot a Conſtable nor Juſtice of Peace, *Lam.*133. *Dal.*347,348.

Gaoler ſuffers a felon to go at large, and he eſcapes; it is felony in the Gaoler, not in the priſoner, *Lam.*229, *Dal.*274. *P.R.* 147,149, *Dal.* 278.

Gaoler

Gaoler by hard and cruel cuſtody compels his priſoner to become an approver; it is felony, 14 *E.*3. *cap.*10. *Lam.*231, 420. *Crom.*49. a. *D l.*288. as,

Gaoler killeth an unruly priſoner which doth aſſault him; it is no felony. *Lam.*235.

Gaoler by hard uſage killeth his priſoner; it is murder. *Lam.*240.

Gaoler that taketh above four pence upon commitment of any priſoner arreſted or attached, forfeiteth to the party grieved, treble damages, and 40 pounds, the one moyety to the King, the other to the party that will ſue for it. 23 *H.* 6. *c.*10 *Lam.*431.

Gaoler or Sheriff refuſing to take a felon delivered by Conſtables or Townſhip, or taking any thing for receiving, is to be fined. 4 *E.*3. *c.*10. *Lam.*434.

Six Juſtices may in ſundry ſhires take order for the common gaol, whereof the Sheriffs ſhall have the cuſtody, and to which murderers and felons, &c. ſhall be ſent, and may perform many incidents thereto by the ſtatute. 23 *H.*8. *c.*2. 13 *El.* 25. *Lam.*336. EXP.

Accountant for mony levyed for the gaol to build it, goeth into another County; the Juſtices of Peace where the gaol is, may ſend an attachment for him into another ſhire. 23 *H.* 8. *cap.*2. 25 *H.*8. *cap.*5. 5 *El. c.*24. *Lam.*525. EXP.

Gaoler ſufferеth a priſoner to go abroad out of his ſight, and he returneth not again; it is an eſcape. *Cro.* 39. b. *an.*5.

Gaoler refuſeth to receive one arreſted for

felony,

felony, the Town muſt keep him till the Gaol delivery. *Dal.*348,349. *Cro.*172.a. but the Gaoler denying to receive ſuch, ſhall be puniſhed by the Juſtices of Gaol-delivery, *ibid.*

Gaoler ſhall take no fees of any ſervant, carpenter, maſon, nor other labourer committed for refuſing to ſerve, on pain of 10 pound to the King, and 100 ſhillings to the party. 34 *E.*3 *c.*9. *Cro.*185.a,b.

Glaſs-men.

Glaſs-men of honeſt life may travel without begging within the County, by licenſe of three Juſtices under their hands and ſeals, one being of the Quorum, 39 *El. c.* 4. but by 1 *Jac. c.* 7. they are made rogues, and ſo to be puniſhed.

Goldſmith.

Goldſmith or worker of gold muſt work as fine ſilver or gold in allay as the ſterling, and ſet his mark on it, or forfeit the double value. 2 *H.*6.*c.*14. *Lam.*467.

None to gild any thing, or any mettal but ſilver, except ſpurs of Knights, and apparel of Barons, or above, on pain of ten times the value, and a years impriſonment. 8 *H.*5.*c.*3. *Lam.*467.

Good abearing.

Good abearing may be granted upon diſcretion, and that by one Juſtice out of the Seſſions; yet better not to command it but upon ſpecial

ſpecial cauſe ſeen to themſelves, or upon ſuit of others, and thoſe very honeſt, and ſeldome for one cauſe alone, and not by one Juſtice only. *Lam.* 120. *Dal.* 191.

Good behaviour may be granted by ſpecial Writ out of the Chancery, *Cuſtodibus pacis & vicecomiti & eorum cuilibet*, upon the ſtatute of 34 *Ed.* 3. 1. *Lam.* 117. *Dal.* 192.

For what cauſes it is grantable. Dalt. 192.

1. Againſt common barretors, quarellers, and diſturbers of the Peace.

2. Rioters.

3. Lyers in wait to rob.

4. Generally feared or ſuſpected to be robbers by the High-way.

5. Such as are likely to commit murder, homicide, or other grievances to the Kings ſubjects in their bodies.

6. Such as ſhall practiſe to poiſon another.

7. Againſt all ſuch as be of evil name or fame generally, but eſpecially againſt ſuch as are defamed in theſe particulars;

1. Thoſe that haunt bawdy houſes.

2. Suſpected to keep houſes of common bawdery.

3. Common whoremongers and common whores.

4. Night-walkers that be ſuſpected to be pilferers.

5. Eves-droppers that caſt mens carts and gates into ponds, and ſuch like miſdemeaners in

in the night; ſuch as live idly, yet fare well, and go well clad, having little to live on, except upon examination, they give good account of ſuch their living.

6. Common haunters of Alehouſes or Taverns, having ſmall means to live on.

7. Drunkards twice convicted.

8. Meſſengers of thieves.

9. Such as make falſe hue and cry.

10. Cheaters and couzeners.

11. Libellers.

12. The putative father of a baſtard.

13. Unlawful hunters in Parks, after examination taken.

14. Abuſing of officers in executing their office, as Juſtice of Peace, Conſtable, or other officer of the Peace; as a Juſtice ſeeth a man break the Peace: and doth charge him to keep the Peace; who anſwereth, he will not.

Words of contempt againſt a Juſtice of Peace, though he be not executing his office.

15. Abuſing a Juſtice of Peace his warrant.

16. He that complaineth of riot or force, and the Juſtices being aſſembled for enquiry will not proſecute.

17. He that chargeth one with felony before a Juſtice and will not proſecute.

18. Abuſing of a *Superſedeas* of the Peace to a wrong end.

By divers Statutes.

1. Diſturbers of Preachers. 1 *M.c.*3.

2. Deſtroyers of fiſh-ponds, or ſtealers of fiſh, after lawful conviction. 5 *El.c.*21.

3. Takers

3. Takers of hawks or hawks eggs out of other mens grounds after lawful conviction. 5 *El. c.* 21.

4. Stealers, hunters, or killers of deer or Cony in Park or Warren after lawful conviction 3 Jac. c. 13.

All these must be bound at the Sessions.

5. Popish recusants must be bound in the Kings Bench. 23 *El. c.* 1.

6. One pardoned for felony, is to be bound before the Sheriff and Coroners. 10 *Ed.* 3. *c* 3.

7. Disturbers of the execution of the statute for rogues. 39 *El. c.* 4.

8. Disturbers of the execution of the Statute for the poor. 39 *El. c.* 4.

9. She that hath had twice a bastard. 7 Jac. cap. 4.

10. Infected with the plague, or having their houses infected and are unruly. 7 Jac. cap. 31.

Greyhounds, *vide* Hunting.

Guns and Gunners.

Gunner that departed from his Captain without licence, or wandring with a forged licence, it is felony. *Lam* 427.

Every person may attach an offender against the statute 33 *H.* 8. *c.* 6. and carry him to a Justice of Peace. *Dal.* 65.

And the Justice upon examination may send him to the gaol till the penalty be paid.

The

The particulars of the Statute 33 Hen. 8.

None under 100 pound *per annum* may ſhoot in or keep a gun, dag, piſtol, croſs bow or ſtone-bow.

None may have or uſe any gun under three quarters of a yard in length.

One of 100 pound *per annum* may take ſuch gun from the offender, or any croſs bow or ſtone-bow, and may keep the bow, but muſt break the gun.

None may travel with a gun charged, or bow bent, but in time of ſervice, and to the muſters, except he have 100 pound *per annum*. *Dal.* 65.

None may ſhoot in a Gun near a Market-Town, but in defence of his houſe or perſon, or at a But.

The maſter may not command his ſervant to ſhoot, except at a But, or in war.

1. Except Serving-men (whoſe maſters are enabled) at a But.

2. Inhabitants of Market-towns.

3. Perſons dwelling alone, or near the Sea, within five miles.

4. Gun-makers.

5. Thoſe that have Placards.

All perſons which ſhoot in guns (other then ſuch as have 100 pound *per annum*) ought to preſent their names to the next Juſtice of Peace, and the Clark of the Peace ſhould record it. *Dal.* 66. maketh *quære* if it be in uſe.

" The Sheriff or any of his Officers may carry

"carry guns, dags or other weapons, offensive "or defensive, for the execution of their office, "notwithstanding the statute of 33 *H* 8. *Coke* 5. 72. *Dal.* 66.

"Any two Justices may commit, for three "months, such as shoot with gun or bow at "any partridge, phesant, house-dove, mal-"lard, or any fowl, or at any hare, unless he "pay 20 shillings. 1 *Jac. c.* 27. *Dal.* 66.

Vide Hunting Partridges.

Hares.

"IF any have traced, killed, or destroyed any "Hare in the snow, he loseth six shillings "eight pence for each Hare. 14 *H.* 8. *c.* 10. *Law.* 447.

Buying and selling of Hares, *vide* Partridges. See the Stat. 1 *Jac. c.* 27. in Fowlers.

Harness and habiliments for war.

To imbezil habiliments of war, or victuals provided for souldiers, mariners, or gunners, is felony. 3 *El. c.* 4.

Hart proclaimed, *vide* Deer.

Harvest time.

Artificers and other persons meet to labor, are compellable by one Justice of Peace or Constable, and the refuser to labour in hay-time or harvest, is to be put in the stocks two

dayes.

dayes and one night, *Lam.*475. the Constable or other head-officer to do it upon pain of 40 shillings. 5 *Eliz. cap.*4.

Hawks and Hawking.

Unlawful taker of Hawks eggs is to have three months imprisonment, there to remain till he find sureties for the good behaviour for seven years. 5 *El. c.*21. *Lam.*446. *vide* 3 *Jac. cap.* 13.

Taking of Hawks eggs upon ones own grounds or anothers, or any Eires, or driving them out of their covert, or bearing any hawk of the breed of *England*, called a Nyesse, Gosshawk, Tassel, Lanner, Lanneret, to be imprisoned a year and a day, and lose 10 pounds and the Hawk. 11 *H.*7. *c.*17. *Iam.*446.

Every Justice of Peace may examine the offences for hawking or hunting with Spaniels in eared or codded corn, and bind over the offender with sureties to the next Sessions. 23 *El. c.*10. *Did.*66. *Lam.*447.

Against hawking at pheasant or partridg, between the first of July and last of August, *vide* 7 *Jac. c.*11. and Partridges.

Vide plus Larceny and Felony.

Hay and Oats.

Inholder taking any thing for litter, baking horse-bread, except in Town or Village, being a thorow-fair, and being no City, Town corporate, or Market-town, the same to be of assize and weight, after the price of corn and grain in the Market, or sell horse-bread, hay, oats,

oats, beans, peaſe, provender, and all kind of victuals, both for man and beaſt, for reaſonable gain; for the offence,

1. Fined.

2. Impriſoned for a month without bail.

3. Stand on the pillory without redemption of mony.

4. Fore-judged for keeping Inne again. 21 *Jac. c.* 11.

Hedge-breakers.

Breakers and cutters of hedges, pales, rails, or fences, cutters and carriers away of corn growing, robbers of orchards or gardens, pullers up of fruit-trees, with intent to carry away, cutters or ſpoilers of woods, poles, or ſtanding trees, convicted before a Juſtice of that County where the offence ſhall be done, by confeſſion, or one witneſs upon oath, are to render ſuch damage as the Juſtice ſhall limit; and if not able, to be whipped by the Conſtable, who for default in his office, is to be committed without bail, till he cauſe it to be done. 43 *El. c.* 7. *Lam.* 302. *Dal.* 143.

No Juſtice to proceed againſt ſuch treſpaſſes for offences done to himſelf, without aſſiſtance of another Juſtice, *ibid.*

The ſecond offence is whipping. 43 *Eliz. cap.* 7.

High-wayes.

One Juſtice may cauſe high-wayes to Markets to be enlarged, and cleanſed of buſhes and trees. 13 *E.* 1. *c.* 5. *Dal.* 67.

Every

Every Juſtice may preſent upon his own knowledg in open General Seſſions, any high-wayes inſufficiently repaired, or any default againſt the Statute. 2 & 3 *P. & Mar. c.* 8. & 5 *El. c.* 13 and ſuch preſentment is as good as the preſentment of twelve men; and thereupon the Seſſions may aſſeſs the ſame, though the preſented be abſent, ſaving to the offender his traverſe. *Dal.* 67. *Cro.* 125. b. 195. 2. *nu.* 5.

The defaults contrary to theſe Statutes.

1. If the Conſtable and Church-wardens do not on Tueſday or Wedneſday in Eaſter week call together a number of Pariſhioners, and chuſe Surveyors for high-wayes.

2. If ſix dayes be not by them then appointed for mending high-wayes before Midſummer.

3. If notice be not given by them openly in the Church the Sunday after Eaſter of the ſaid ſix dayes.

4. If he that hath a plow land in tillage, or paſture, or draught, do not for every draught or plow land ſend one cart with two able men to work eight hours of every of the ſaid ſix dayes, 20 ſhill.

And every other Pariſhioner having 5 l. in goods, 40 ſhillings in lands in the ſubſidy, muſt find every day two able men, or loſe 10 ſhillings, and every cottage one, or loſe 12 pence a day.

But 18 *El.* 9. he that occupieth a plow-land in

in ſeveral Pariſhes, only where he dwelleth; and he which hath plow land in ſeveral Pariſhes, ſhall be charged in each town. *Dal.* 68 *Cro.* 82. b.

5. If the carriages be not thought needful by the ſurveyors, then two able men for every cart ſpared, upon pain to forfeit for every one not ſent 12 pence. 2 & 3 *Phil. & Mar. cap.* 8. *Cro.* 82. b.

6. If fences, hedges and ditches next adjoyning to the high-wayes be not kept low, ſcowred, and repaired.

7. If all trees and buſhes growing in the high-wayes be not cut down by the owner of the land, upon pain of 10 ſhillings for every default. 5 *El. c.* 13. 18 *El. c.* 9.

8. If any choſen to be ſurveyors refuſe the office, or do not execute it, penalty 20 s. 2 & 3 *P. & M. c.* 8.

9. If the ſurveyor do not within one month next after the offence committed, preſent it to the next Juſtice, he forfeiteth 40 ſhillings. 5 *El. c.* 13. 29 *El. c.* 5.

10. If the Bailiff or Conſtable who receiveth the eſtreats, do not levy the ſame, or make not a true account and payment of all ſums levyed to the Conſtable and Churchwardens, or the Conſtables and Churchwardens have not imployed them upon the high-wayes.

If the Surveyors do certify the next Juſtice within a month, the Juſtice ought to certify the preſentment at the next Seſſions, penalty five pounds.

If

If the surveyors present not till after the month, and the Justices do certify it at the next Sessions, it is not good against the offenders. *Dal.* 70.

Two Justices, one being of the Quorum, may call those to whom the estreats are delivered, to their account, betwixt the first of March and last of April, and compel them to pay all such arrerages as they shall adjudge the Constables and Churchwardens, or imprison them till payment of such arrerages be made, and call the Surveyors, and Constables, and Churchwardens to an account.

All fines at the Sessions for high-waies, shall be levied by estreats indented, sealed, and signed by the Clark of the Peace, and delivered by him within six weeks after Michaelmas, *Dalton* 71. as by the Statute is appointed. *Vide* Statute.

The Bishop, Chancellor, and three Justices of Peace, may examine the bestowing of any mony appointed by any statute for the amending high-waies or bridges, and call to account the detainer thereof. 14 *El. c.* 5. 39 *El. c.* 18. *Lam.* 366.

Upon Indictment for repair of bridges in high-waies, there shall be like process as the Kings Bench useth, or such as the Justices of Peace think meet. 22 *H.* 8. *c.* 5. *Lam.* 523.

High-waies leading from one Market town to another, shall neither have dike, underwood, or bush, whereby a man may lurk to do hurt, within two hundred foot of one side or other: if default be in the Lord, and any robbery

robbery be done therein, he must be answerable for it; and the Lord of a Park must set it two hundred foot on each side from the way, or a sufficient wall, dike, hedge, or pale, that the offenders cannot pass, *Dal.* 133.

High-waies.

Every Justice of either Bench, Baron of the Exchequer, and Justice of the Peace of *London* and *Westminster* have power upon their own view or proof by one Witness upon oath to convict persons offending, and to dispose the penalties towards mending and cleansing the Streets: If upon proof, half to the party informing; if upon conviction by view, then the whole towards repairing and cleansing the Streets and Wales to be levied by Warrant from any such Justice, under his Hand and Seal, directed to the Constable, or other Officer of the same Parish, by distress and sale of the Offenders Goods, and for want of Goods (if no Peer) imprisonment until payment, 13 & 14 *Car.* 2. *cap.* 2. *stat.* 2.

And by another Act, the Justices of Oyer and Terminer, and of the Peace may enquire of, hear, and determine matters of charitable Gifts for mending or enlarging High-waies, and all offences in Surveyors and others, concerning High-waies, and make order for the same. But the parties may appeal, if grieved, to the Court of Chancery, as upon Decrees upon the statute of Charitable Uses.

And no *Certiorari* shall be allowed to remove any information, indictment, or other

proceedings in the Quarter Sessions touching the same, but upon security to the Prosecutor, to pay him Costs and Charges, 14 *Car.* 2. *cap.* 6.

And for the Northern High-waies, *York*, *Lincoln*, *&c.* See the Act, 15 *Car.* 2. *cap.* 1. *Stat.* 3. And the Act 16 *&* 17 *Car.* 2. *cap.* 2.

Homicide.

Homicide is the killing of a man by a man, *Dal.* 254.

It is no difference, whether the slain be alien, denison, or English man, if he lives under the Kings protection, *Law*, 237. *Crom.* 21. 2 *Hu.* 1. *Dal.* 239.

To kill one attainted of treason, or felony, or outlawed for felony, or attainted in Premunire, is felony, *Dal.* 239. *Cro.* 24. 2. *nu.* 39. *Stamford* 13. *quære.*

Homicide is either killing himself, *felo de se*, or another.

Felo de se forfeiteth to the King his goods and chattels real and personal, and his debts due by specialty, *Dal.* 240. but no lands, nor bloud corrupted, *ibid.*

His goods are not forfeited till his death, *ibid.*

Infant, or *non compos mentis* do not forfeit; but a lunatick killing himself out of his lunacy, doth forfeit his Goods, *Dal.* 240.

Homicide of another is { Voluntary, / Involuntary.

Voluntary

Voluntary is { Murder, *vide* Murder. / Manſlaughter.

Manſlaughter is when two fight together upon the ſudden, without malice precedent, and one of them doth kill the other, *Cro.* 26. a. *Lam.* 248. *Dal.* 247.

Manſlaughter is { By chance-medley. / *Se defendendo* { perſon. / house and goods.

Manſlaughter by chance-medley is felony, but may have his clergy, *Dal.* 247.

One fighting breaks his weapon, a ſtander by lends him another, whereby the other is killed; it is manſlaughter in the lender, *Dal. ibid. Cro.* 26. b. *nu.* 12. *Lam.* 252.

Two fighting on the ſudden, part and meet again, one killeth the other; it is a continued fray, *Dal. ibid. Lam.* 250. *Crom.* 23 b. *nu.* 31. & 24. a. *nu.* 36. & 26. a. *nu.* 9.

The ſervant fighting in his maſters defence, though there were malice in the maſter not told to the ſervant, *Lam.* 248. ſo a ſtranger ſuddenly taking part, *Lam.* 248. it is chance-medley.

Two that were in malice are reconciled, fall out upon a new occaſion, and one is killed; it is manſlaughter only, *Lam.* 250. *Dal.* 248.

Se defendendo, when one killeth another in the neceſſary defence of himſelf or his, thereby to ſave himſelf or his poſſeſſions or goods, or ſome other perſons which he is bound to defend from peril, and it is either againſt a felon, as murderer or thief, or a loial ſubject, *Lam.* 252. *Dal* 253.

Against a loial ſubject, if he be aſſailed by another man, he muſt flie ſo much as he may till he be letted by ſome wall, ditch, hedge, preſs of people, or other impediment, that his neceſſity of defence may ſeem inevitable, and he ſhall be committed till the time of his trial, loſe his Goods, and ſeek his pardon, *Lam.* 253. *Da.* 254. It is not material though he ſtrake again, if before he give any deadly wound he flie to the ſtreight.

"A man flieth to a wall, and holding out "his weapon, the other runneth upon it and "is ſlain, it is *ſe defendendo*, and forfeiteth "his goods, *Dal.* 274. *Cro.* 28. a. *nu.* 7. But if he "had fallen on the ground, and drawn his "knife, and the other fall on it, and killeth "himſelf, he forfeiteth no goods, for he could "not flie, and the ſlain is in a ſort *felo de ſe*, "*ibid. P. R.* 122. b. *Stam.* 16. a.

Neither is it material, though there were former malice, unleſs he lie in wait for the other, or agree for the place of fight, or ſtrike the firſt ſtroke, *Lam.* 253. *Dal.* 254.

Or aſſaulted in his own houſe upon a ſudden quarrel, and thereby killeth him, *Lam.* 254. but he forfeiteth his goods, and muſt have his pardon of courſe, except the aſſailant came with a felonious intent to kill or rob him, *Dal.* 255. *Cro.* 28. a. *nu.* 6. *Lam.* 254.

A man falleth to the ground, there his flying to a ſtreight is not neceſſary, *Dal.* 255.

An officer or miniſter of juſtice, in executing his office, being aſſaulted, is not bound to flie, *Dal.* 255. *Coke* 9, 98.

A

A ſervant killing him, who robbed or killed his maſter, ſo it be done preſently, or in defence of his maſters perſon or goods, if he cannot otherwiſe be avoided, *Dal. ibid. Cro.* 28. *nu.* 4.

Forreſter, Parker, or Warrener, or any in their company, killing an offender in a Forreſt, Park, or Warren, after hue and cry to keep the Peace, if they yield not themſelves, but flie, or defend themſelves by violence, is no felony, *Dal.* 255. *Quære* if there be no malice in the keeper, *Cro.* 30. b.

In defence of my houſe and goods, it is juſtifiable by me, my ſervants or company, to kill one who attempteth felonioufly to murder or rob me in my dwelling-houſe, or in or near a high way, horſe-way or foot-way, or burglarily to break my houſe in the night, *Dal.* 254. *Crom.* 27. b. *nu.* 1. *Vid Lam.* 240. of one entring by force in the day, & killing in the dark.

To ſhoot at him that cometh to burn my houſe, is juſtifiable in me or my ſervants, *Dal. ibid. Cro. ibid.*

In defence of the poſſeſſion of my goods, I may juſtifice to beat him that wrongfully taketh them, but not kill him, except he be a thief, *Dal.* 255. *Vide* Aſſault.

To kill a true man, in defence of houſe, land, or goods, is man-ſlaughter, *Dal. ibid. Cro.* 27. b. *nu.* 4.

Involuntary homicide is by { Miſ-adventure, Neceſſity.

By miſadventure is, when a man doing a lawful act, without any evil intent, killeth a man; this is not felony of death, but he ſhall

have his pardon of course for life and lands, but forfeiteth his goods, *Dal.* 249. *Lamb.* 254.

A schoolmaster, father, mother, or master, correcting moderately his schollar, child, or servant; Shooting at pricks, buts, or lawful mark; A workman casting tyle, timber, or stone from a house, or any thing from a cart and giving warning, or doing other lawful thing, and giving warning.

Running at Tilt, or fighting at Barriers by the Kings command.

The killing of a man in doing of any unlawful act, without evil intent, is felony, as shooting arrows, casting stones into highwaies, or other place whither men usually resort, *Dal* 250.

Fighting at Barriers, or running at Tilt without the Kings command.

Quære if playing at hand-sword, bucklers, foot-ball, wrestling, and such like, whereby a man is slain or receiveth hurt, and dieth within the year and day, be felony of death, or may have their pardon of course. *Quære similiter* of casting a stone at a bird or beast.

A man may be slain by the fall of a house or tree, &c. and killed by a bull, bear, horse, dogge, &c. or by some fall which he taketh, *Dal.* 251. if it be through the wilful default of another, it is felony.

The thing which causeth the death is a *Deodand*, and so forfeited to the King, *Crom.* 31. a. *Dal.* 251.

The forfeiture hath relation from the stroke given. *Deodands*

Deodands are not forfeited, till the matter is found on record, *Dal.* 251.

The Jury which findeth the death of a man, muſt find and apprize the *Deodand*. It behoveth the Town to ſee it forth-coming; for the Sheriff ſhall be charged with the price, and ſhall levy the ſame on the Town, *Dal. ibid. Stam.* 21.

If the ſlain be under 14 years of age, nothing is forfeited as a *Deodand*, *Dal. ibid. Lam.* 21. &c.

Homicide by neceſſity is { Commanded, Tolerated.

Commanded.

An officer doth execution after judgment, according to his warrant; it is not properly homicide, but juſtice, *Lam.* 234. *Dal.* 252.

If the officer doth not obſerve order of law, it is felony in the officer, *Dal. ibid. Lam.* 240. *Stam.* 13.

"If a ſtranger, not lawfully deputed, put "to death one condemned to die, it is felony, "*Dal. ibid. Lam. ibid.*

"It is not lawful for the Judge, who con-"demned him to be put to death, *ibid.*

Tolerated.

One warranted to arreſt one indicted of felony, upon reſiſtance killeth him, *Dal. ibid. Lam.* 234.

Every private perſon upon hue and cry to take a felon, if he reſiſt and will not yield, may kill him, *ibid.*

Conducters of a felon to the Gaol, upon resistance or flight may kill him, *Dal.* 253. *Lam.* 234.

A prisoner in the Gaol attempteth to escape, and striketh the Gaoler, he killeth the prisoner, it is not felony, *ibid.*

Rioters, forcible enterers or detainers, that shall resist the Justice of Peace, or other the Kings officers, and will not yield themselves, being slain, it is no felony, *Cro.* 23 *b.na.* 21. 30. b. 158. b. *Lam.* 235. *Dal.* 253.

If an officer, by vertue of the Kings process, arresting one for debt or trespass, is resisted, and killeth the resister, it hath been taken to be no felony, *Dal.* 253. *Cro.* 24. a. 30. b. *Queen Cok. lib.* 4. *fol.* 40. 41.

To kill a true man in defence of house, lands, or goods, is homicide by necessity, *Dal.* 254.

In all these former cases there must be inevitable necessity, that the offender could not be taken without killing, Dal. 253.

Horses and Mares.

Any Justice may hear and take the claim of the owner of any horse, &c. which was stollen within six months after the sale thereof, the proof to be made by two witnesses upon oath within forty daies next ensuing the said claim, *Dal.* 73. *Lam.* 203. 31 *Eliz. c.* 12.

The Justice of Peace may minister an oath to the buyer what money he paid, *bonâ fide*, so as the right owner repaying his mony, may have his horse again, *Dal. ibid.*

Owner, officer, or ruler of any fair, is to appoint

appoint an open place for ſale of horſes, &c. and a ſufficient perſon to take toll, or loſe forty ſhillings for every fault, and anſwer the party grieved, 2 & 3 *P. & M. c.*4. *Lam.* 471.

The ſale of every horſe, not being according to the ſtat. in every point, is void, *D.*73. *L.*472.

1. The horſe muſt be one hour at the leaſt in the place of the open fair.

2. All the parties to the bargain being in the fair, muſt come with the horſe to the book keeper.

3. The book-keeper muſt take perfect knowledge of the ſeller and of the voucher, of the Chriſtian name, ſirname, myſtery and place of dwelling.

4. The voucher muſt know the ſeller indeed, and declare to the book keeper the Chriſtian name, ſirname, myſtery and dwelling, as well of himſelf, as of the ſeller.

5. The book-keeper muſt make a true and perfect entry of the ſellers name and place of dwelling, &c. and of the true price, forfeiture, 31 *El. c.*12.

Every contract for a ſtollen horſe out of the fair is void, though it be after booked, *Dal.*74.

A ſale in open market ſhall not take away the owners property, the buyer knowing that it was anothers, *Dal. ibid.*

All horſes, and all other goods, are to be ſold in ſuch a place or ſhop as is commonly uſed for the ſelling of goods of the ſame kind, to alter the property, *Dal. ibid.*

A thief ſelleth a ſtollen horſe by a falſe name, and it is ſo entred in the toll-book; ſuch

miſ-naming maketh the ſale void againſt the owner, *Dal.* 74.

Horſe-bread.

Inholder in a corporate or market Town, where there is a common baker that hath been an apprentice therein ſeven years, may not make horſe-bread within his houſe, 32 *H.* 8. 41. 21 *Jac. c.* 21.

Inholder or oſtler in a thorow-fare Town, being no city, town corporate, or market town, being a baker, and one that hath been an apprentice therein ſeven years, may make horſe-bread within his houſe, 21 *Jac. cap.* 21.

The horſe bread muſt be ſufficient, lawful and of due aſſize, according to the price of corn, 21 *Jac.* 21.

Penalty
1. Fine.
2. Impriſonment for a moneth without bail.
3. Stand in the pillory without redemption of mony.
4. Forejudged for keeping Inne again, 21 *Jac. c.* 21.

Vide Inn-holder.

Hoſpital.

The Biſhop and his Chancellour, with two Juſtices of Peace next inhabiting, may charge the collectors of a revenue of an Hoſpital, upon a pain, preſently to account, and to imploy the ſurpluſage to the uſe of the Hoſpital, *Law.* 356. 14 *Eliz. c.* 5. 39 *El. c.* 18.

Hoſpitality, *vide* Religious Houſes.

Houſe

Houſe.

1. A mans houſe is his caſtle for defence, *Dal.* 209.

2. It protecteth againſt any arreſt at the ſuit of any ſubject, *ibid.*

3. In ſome caſes it is a priviledg againſt the Kings Prerogative; for he hath been adjudged, that Salt-peter men may not digge in a Manſion-houſe without the owners conſent, *ibid. Coke lib.* 11. *fol.* 82.

Thieves or murderers attempting to rob or murder a man in his houſe, he may aſſemble company, and kill any of them, and forfeiteth nothing, *ibid.*

He may beat him that will enter upon his poſſeſſion, but may not kill him. *Quære* if he may hire ſtrangers to aid him, or put his ordinary company in armour, *Dal.* 209.

Vide plus Homicide.

Houſe of Correction.

Houſe of Correction, with implements and backſides fitting for ſetting on work idle perſons, to be erected and provided in a convenient place in every County before Michaelmas 1611. the ſame to be conveyed over to ſuch as by the greateſt part of the Juſtices at the Quarter-Seſſions ſhall be choſen to be imployed for ſetting on work idle and diſorderly perſons, on pain of five pound for every Juſtice of Peace, the one moiety to the informer, the other towards the erecting of the houſe,

7 *Jac.* cap. 4. Maſter

Master of the said house to be appointed by most of the Justices at the Quarter Sessions, next after providing of the said house, who is to set on work, and moderately to correct by whipping or fettering, such persons as shall be sent to him, 7 *Jac.* c. 4.

Master of the house of correction giving sufficient security for performance and continuance of his service, is to have yearly such money as by most of the Justices at the Q. Sessions shall be thought meet, to be paid quarterly by the Treasurer, or else the master to levy it in such sort as the Treasurer may, 7 *Jac.* c. 4.

Constables shall appear before the Justices of Peace twice in the year, and give account upon oath in writing, under the hand of the minister, what Rogues have been apprehended, and how many punished, 7 *Jac.* c. 4.

Constables not safely conveying to the house of Correction such as by the Justices of Peace at their meeting, for the execution of the Statute, 7 *Jac.* c. 4. shall be sent thither, to pay such fine under forty shillings, as by most of the Justices shall be assessed, 7 *Jac.* c. 4.

A woman having a bastard which may be chargeable to the Parish, for the first offence to be sent to the house of correction one year, for the second offence, to be sent to the house of correction, and to remain there (as aforesaid) till she finde sureties for the good behaviour, and not to offend so again, 7 *Jac.* c. 4.

Any able to work, and threatning to run away, and leave their families upon the Parish,

upon

upon oath of two witneſſes before two Juſtices of the ſaid diviſion, to put in ſureties for diſcharge of the Pariſh, or to be ſent to the houſe of correction, 7 *Jac.* c. 4.

Maſter of the houſe of correction quarterly at the Seſſions muſt yield account of ſuch as have been committed, or is to be fined by moſt of the Juſtices, 7 Jac. c. 4.

If any committed become troubleſome to the countrey by going abroad, or eſcape without lawful delivery, the maſter is to be fined by moſt of the Juſtices at the Qu. Seſſions. 7 Jac. c. 4.

All penalties not limited by the ſtatute of 4 Jac. 4. ſhall be paid to the Treaſurer, and accounted by him. 7 Jac. c. 4.

Vide plus Poor people.

Hunting.

One Juſtice of Peace, upon information of any unlawful hunting of Deer or Conies by night, or with painted faces, or other diſguiſing in foreſt, park, or warren, may make warrant to the Sheriff, Conſtable, Bayliff, or other officer, to take the party ſuſpected, and to bring him before him, or ſome other Juſtice, to examine him thereof; and if he conceal the hunting, or any offender with him therein, the concealment is felony in the concealer, but the truth confeſſed is but fineable at the next Quarter-Seſſions. 1 *H.* 7. c. 7. *Lam.* 191. *Dal.* 180.

To diſobey ſuch a warrant, or make reſcous thereupon, ſo that execution of that warrant be

be not had, is felony. 1 *Hen.* 7. *cap.* 7. *Dal.* 75.

The Juſtice of Peace that taketh examination of the offender for unlawful hunting in parks, &c. may after the examination bind the offender to his good behaviour, to the end he be forth-coming till the offence and the offender be lawfully examined. *Dal.* 75, 76.

Unlawful hunting by three or more will prove a ryot. *Dal.* 76.

Any by night or day wrongfully entring into any incloſed ground, kept for keeping of Deer or Conies, and there chaſing or killing of them, upon conviction to be impriſoned three months without bail, and there to continue till he pay treble damages and coſts to be aſſeſſed by the Juſtices before whom he is convicted, or pay to the party grieved ten pound for a Deer at the election of the party grieved, 7 Jac. c. 13. and find ſureties for his good behaviour for ſeven years. 3 Jac. cap. 13. 7 Jac. cap. 13. *Lam.* 449.

The party grieved, or the Juſtices of Peace, upon ſatisfaction of the party grieved, and confeſſion of his offence, and that he is ſorry for the ſame, in open Seſſions may releaſe the offender of his bond for the good behaviour. 3 Jac. c. 13.

The ſtatute, 3 Jac. c. 13. doth not puniſh offenders in parks or incloſed grounds made after the ſtatute, without the Kings licence, 3 Jac. c. 13.

Enquiring, hearing, and determining of offences againſt the ſtatute, 3 Jac. c. 13. may be made

made by the Juſtices of Peace and Gaol-delivery at the Seſſions, and they may award proteſs upon indictments, informations, bills of complaint, or other actions wherein no eſſoin, &c. 3 Jac. c. 13.

Any not having lands of inheritance in his own or wives right of the clear yearly value of 10 l. or for term of life of 30 l. *per annum*, or goods to his own uſe worth 200 l. keeping Greyhound to courſe Deer or Hare, except the ſon of a Knight or Baron of Parliament, or ſon and heir of an Eſquire, upon conviction by confeſſion or oath of two witneſſes before two Juſtices of Peace, where the offence is committed, the party apprehended to be impriſoned three months without bail, except he preſently pay to the Churchwardens where the offence was committed, or party apprehended, 40 ſhillings to the uſe of the poor of the ſaid Pariſh, 1 Jac. c. 27.

Any having lands in fee ſimple, or fee-tail of 100 l. *per annum*, finding any not having lands of 40 l. *per annum*, nor worth 200 l. in goods, to uſe any gun, bow, dogs, or engines for killing of deer or hare, except parker or warrener, or owners of either of them, or other grounds incloſed for deer or conies, that ſhall be yearly worth 40 s. may take any their guns, bows, engines, and dogs, and keep them to his own uſe. 3. *Jac.* c. 13.

Lay perſon not having in lands 40 s. *per annum*, ſpiritual perſon a benefice not 10 l. *per annum*, keeping dogs to hunt, or uſing ferrets, &c. ſhall be impriſoned for a year. 13 *R.* 2. c. 13. *Vide* Parks.

If any person shall unlawfully course, kill, hunt, or carry away any red or fallow deer, in any forrest, chace, purliew, wood, park, or other ground where deer are, or usually have been kept within *England* or *Wales*, without the consent of the owners, or party chiefly trusted with the custody thereof, and shall be convicted thereof, or as aiding and assisting therein, by confession of the party, or oath of one or more witnesses, before one or more Justices of the Peace of the County where the offence was committed, and being prosecuted within six moneths after the offence done, shall forfeit for every such offence 20 l. to be levyed by distress upon the Offenders goods, one moyety whereof to the Informer, the other to the owner of the deer: And for want of distress, the offender to be committed to the house of Correction for six months, and there put to hard labour; or to the common Gaol for one whole year, at the discretion of the Justice before whom the Conviction shall be, and not discharged from thence untill sufficient Sureties be given for the good behaviour. 13 *Car.* 2. *cap.* 10. But no offender punished by this Act shall incur any penalty upon any Law for the same offence, *ibidem.*

Hundred.

Hundred with the liberties therein to be equally taxed by two Justices of Peace, one to be of the *Quorum*, in or near the hundred, for relief of those that are robbed. 27 *El.* c. 13. *Dal.* 132. 299.

The

The robbed ſhall not have his action upon the ſtatute of 27 *Eliz. c.* 13. except he firſt with all ſpeed convenient give notice of the robbery to ſome inhabitant near the place where he was robbed.

2. Commence his ſuit within a year next after ſuch robbery committed.

3. He being examined upon his oath within 20 dayes next before ſuch actions brought by one Juſtice where the robbery was committed, dwelling near to the hundred, if he knew the robbers, or any of them.

If he knew any of the robbers before ſuch action, he ſhall be bound before the ſaid Juſtice to proſecute the offenders effectually by Indictment, or otherwiſe by courſe of law. *Dal.* 131.

The Hundred muſt anſwer the loſs, if the robbers be not taken within 40 dayes. *Dal.* 131, 299. *Cro.* 179. a. *Vide* Robbery.

A man is ſlain in the day time out of a town, and the murderer doth eſcape, the Hundred ſhall be charged therewith. 299.

Jury of one hundred may preſent an offence done in another hundred. *Lam.* 399.

"Robbery in a houſe doth not charge the "hundred, though it be in the day time. *Dal.* 133.

"Robbery in the night doth not charge "the hundred, yet if it be by day light, though "before ſun-riſing, or after ſun-ſetting, the "hundred ſhall anſwer it. *Dal.* 133. *Coke l. 7. fol.* 6.

"If upon purſuit, the offenders or any of them

" them be taken, the hundred ſhall not be " charged. *Dal.* 133.

" If the party robbed take any of the thieves " after Hue and Cry made, it excuſeth the " hundred. *Dal. ibid. Cro.* 179. b.

" He which is robbed ſhall not have his " action where one of the felons is taken, but " if there be no Hue and Cry, the village " ſhall be amerced, though one of the felons " be taken. *Cro.* 179. b.

Vide plus Hue and Cry.

Hue and Cry.

For the apprehending of homicides, burglars, robbers, and other felons, hue and cry ſhall be made, and every man ſhall follow the hue and cry; and he that doth not, ſhall be attached to appear before the Juſtices of Gaol-delivery. It ſeemeth any Juſtice of Peace may bind him over by the commiſſion, *Dal.* 299, *Cro.* 179. b.

Hue and Cry ought to be made from town to town, from countrey to countrey, by horſemen and footmen; 13 *Ed.* 1. *c.* 12. 27 *El.* c. 13. *Dal.* 75. *Cro.* 178. b. 179. a. b. otherwiſe it is no lawful purſuit to arraign a felon.

Upon committing of any robbery or felony, the Officer of the town where it was done ought to ſend hue and cry to every town round about him. *Dal.* 75. *Cro.* 178. b. *in.* 2.

Every Juſtice of Peace may cauſe hue and cry, freſh ſuit and ſearch to be made upon any murder, robbery, theft, or other felony committed, by force of the firſt *aſſignavimus*. *Dal.* 49, 75. *Lam.* 185.

By

By a falſe hue and cry to enter into any houſe with the Conſtable to bind and rob the Conſtable and maſter of the houſe in the night, is burglary. *Dal.*257. *Cro.*32.b. *Hu.*24. *Lan.*263.

Vide plus Robbery.

"The Inhabitants of any hundred (either "within the county wherein the robbery was "done, or in any other county wherein de-"fault ſhall be of freſh ſuit after hue and cry "made) ſhall ſatisfy the moiety of ſuch mo-"ney as ſhall be recovered againſt the hun-"dred where the robbery was done. *Dal.* 132.

"In levying hue and cry it is neceſſary to "give notice of the thing ſtolen, as horſe, "&c. of the colour and ſpecial marks; ſo of "the thieves perſon, apparel, &c. to ſearch "ſuſpected places, and to take ſuſpitious per-"ſons, and bring them before a Juſtice of "Peace to be examined. *Cro.*178.b.

"If any raiſe hue and cry without cauſe, "he ſhall be attached for diſturbing the "Peace. *Cro.* 179. a.

Jeſuites and Seminary Prieſts.

ANy Juſtice of Peace within the County in which any Jeſuite, Seminary Prieſts, or other Prieſts, Deacons, religious or Eccleſiaſtical perſon ſhall arrive or land may within three dayes after take the ſubmiſſion, oath, and acknow-

acknowledgment of him touching his obedience to the King and laws provided in cases of religion. 27 *El. c.* 2. *Lam.* 198. *Dal.* 104.

Every one understanding that any such Priest, &c. shall be within any of the Kings dominions, ought to discover the same to some Justice or other superior Officer within ten dayes after such knowledg, under the pain of fine and Imprisonment; and the Justice within 28 dayes must give information thereof to one of the privy-Councel, on pain of 200 marks. 27 *El. c.* 2. *Lam.* 198. *Dal.* 104.

Two Justices of Peace of the County where any of the Kings Subjects that are no Jesuites, &c. brought up in any Colledg of Jesuites, or in Seminaries, shall arrive within six months after proclamation made to that end, may within two dayes after their return take their submission under the oath of supremacy. 1 *El. c.* 2. 27 *El.* 2.

To receive Jesuites or Seminary Priests, contrary to the Statute, is felony. *Lam.* 414. 27 *El. c.* 2.

Any within three dayes after the offence committed, discovering to any Justice of Peace, any Recusant, Seminary, or Popish Priest, or any Mass to have been said (any of them then present there) if by reason of his discovery, any offender be taken and convicted, he shall be freed from the danger of the offence, and have the third part of the forfeiture by such offence. 3 *Jac. cap.* 5. *Lam.* 199. *Dal.* 106.

Impri-

Impriſonments, *vide* Priſon.
Indictments, *vid.* Enditements.

Information.

Information againſt a felon, whether it ſhall be taken by oath or no, is uncertain, but *Lam.* 213, 214, 215. *Dal.* 307. *Cro.* 194. a. *in.* 5: do beſt allow it by oath, and ſo do divers Judges in their Circuits.

No proceſs can be awarded upon information of a private perſon, unleſs where the ſtatute particularly warranteth inquiry by information, as the ſtatute of 5 *Eliz. cap.* 4. of labourers, 5 *Eliz. cap.* 21. of taking of fiſh, deer, or hawks.

Information of ſuch as bring a felon, muſt be taken by a Juſtice of Peace: ſo much thereof as is material, he muſt put in writing within two dayes after the examination. *Lam.* 212. 2 & 3 *Ph. & Mar. c.* 10. *Dal.* 303.

Two inform againſt another in matter of felony, and do vary in their tales, *viz.* in the day and place when and where it was committed; ſuch information is not to be credited. *Dal.* 303. *Cro.* 100. a.

The bringer of the ſuſpected will not inform, it is meet to bind him over to give evidence. *Dal.* 206.

Form of a Recognizance for the informer againſt a felon. *Lam.* 214, 216.

"It is not neceſſary in an information for "the King to recite the ſtatute upon which "the Bill is framed, but to ſay *contra formam*

" *mam ſtatuti in hujuſmodi caſu editi & præ-*
" *ſi*, Cro. 104. b. nu. 50, 53.

Informers and Promoters.

Informer compounding for any offence againſt a penal law, without conſent of ſome of the Courts of *Weſtminſter*, or willingly delaying or diſcontinuing a ſuit, loſeth 10 l. and is to ſtand in the pillory being convict thereof at the Quarter Seſſions, 18 *El. cap.* 5. 27 *El. c.* 10. *Lam.* 439, 609. the ſame to be heard at the Quarter-Seſſions.

" All actions for any offences againſt any
" penal ſtatute, ſhall be commenced in the
" County only where the offence was com-
" mitted, and upon the defendants pleading
" *Nihil debet*, or Not guilty, the plaintiff muſt
" prove, 1. the offence, 2. to be done in the
" county, 21 *Jac. c* 4.

" No officer ſhall receive, file, or enter of
" record, any information, Bill, &c. until the
" informer hath taken his oath before ſome
" Judg of that Court, that the offence was
" done in the ſame county within a year be-
" fore the information or ſuit, 21 *Jac. c.* 4.

Ingroſſer.

Ingroſſer is he that by any contract (unleſs by grant of land or tythe) buyeth corn on the ground or other dead victuals, to the intent to ſell them again, except buyers of barley or oats, to make malt or oat-meal. Victuallers not foreſtalling, Badgers and Drovers not abuſing their lawful licenſe, buyers of forrein com-

commodities, except fiſh and ſalt, are excepted, 5 *Ed.* 6. *c.* 14. 5 *El. c.* 12. 13 *El. c.* 25. *Lam.* 451.

In-holder.

In-holder taking any thing for litter, or exceſſively for hay, or above a half peny a buſhel above the market for oats, loſeth four times the value of the overplus, 13 *R.* 2. *c.* 8. 4 *H.* 4. *c.* 25. *Lam.* 473. repealed by 21 *Jac. c.* 21. *Vide plus* Horſe-bread.

In holder or Alehouſe-keeper may be compelled by a Conſtable to lodg ſtrangers. *Dal.* 28.

In-holder that ſuffereth a non-inhabitant to tipple in his houſe, ſhall incur the penalty limited. 1 *Jac. c.* 9. 1 *Car. c.* 4.

In-keeper, Taverner, Victualler, is within the ſtatute. 1 *Jac. c.* 9. 4 *Jac. c.* 5. 1 *Car. c.* 4.

Inmates, *vide* Cottages.

Inrolment.

One Juſtice of Peace may joyn with the Clark of the Peace in taking of an inrolment of an Indenture of bargain and ſale of lands, &c. lying in the ſame county, and either of them is to have 12 pence if the land exceed not in value 40 ſhillings a year; and if it do, then two ſhillings ſix pence a piece; and taking above, fined. 27 *H.* 8. *c.* 16. *Lam.* 196, 369, 393, 436.

Iſſues.

The Sheriff that gathereth other eſtreats of iſſues

iſſues then of right are due, forfeiteth 5 marks to the King, as much to the party, 27 *El. c.* 7. *Cro.* 201. a. *Lam.* 432. Forfeitures of iſſues by Jurors are to be levied by Records of execution awarded by the Juſtices of Peace. 27 *El. cap.* 7. *Lam.* 585.

Judgment.

Ambiguity ariſing in Judgment betwixt the Juſtices of Peace, they ſhall forbear to proceed till the Judges come; but if they will proceed the Judgment is not void, but muſt be reverſed. *Lam.* 568. the commiſſion it ſelf.

Where the ſtatute appointeth a puniſhment, there Judgment muſt be according to the ſtatute. *Lam.* 570.

Upon treſpaſs, riots, and ſuch other offences, where no forfeiture is preſcribed, judgment is to be taken and ranſomed, *Lam.* 570.

Vide plus the ſeveral offences.

Juglers, *vide* Licence.

Jurors.

Jurors both for enquiry and tryal, ought to be *Probi & legiles homines*, Lam. 396.

What perſons may not be Jurors, and being Jurors make preſentments void, unleſs there be 12 beſides.

1. Attainted in conſpiracy, 2. Attaint, 3. *Decies tantum*, 4. Subornation of Perjury. 5. Con-

5. Concealment they be not *probi*, and their preſentment void, unleſs there be twelve beſides them that are not blemiſhed, *Lam.* 396. 6. Outlawed, 7. Abjured, 8. Condemned in a *Præmunire*, 9. Attainted of treaſon, 10. Felony, &c. *ibid.* 11. Women, 12. Infants under 14 years of age, 13. Aliens, 14. Clergy-men, *ibid.*

Jurors muſt be inhabtants or free-holders within the County, to the value of 40 ſhill. *per annum*, but in Cities and Boroughs to the value of forty ſhillings in good, *La.* 396, 397.

Jurors for trial of an indictment within the County Palatine of *Lancaſter* muſt have 5 pound *per annum*, *ibid.*

Juror 70 years old or decrepit returned by the Sheriff, muſt ſerve if the Juſtices will; but he may ſue the Sheriff upon the Statute of *Weſtminſter* 2. *c.* 38. *Lam.* 397.

Juror exempted by Charter with theſe words, *Licet tangat nos*, is to be diſcharged upon his appearance, but he ought to ſhew it to the Sheriff, *ibid.*

When there is want of ſufficient Jurors, no exemption can diſcharge, *ibid.*

Preſentment is good, though ſome of the Jurors be allied to him that procureth the preſentment: but it is no diſcretion in the Juſtices to ſuffer any ſuch to be impanelled, *Lam.* 398.

If the particular Juries for the hundred cannot be ſupplied by thoſe of the hundred, it is better to take *Tales de circumſtantibus* of other hundreds, then to be renewed with a *Tales*

from Seſſions to Seſſions, *Lam.* 398.

Jury of one hundred may preſent an offence done in another hundred, *Lam.* 399.

Juſtices may command the Sheriff to alter the panel, and he refuſing forfeiteth 20 pound, *ibid.* 3 *H.*8. *c.*12.

All the Jurors muſt be ſworn, otherwiſe their preſentments are void: but the Record being that all the Jurors were ſworn, the preſentments are good, though all be not ſworn, *Lam.* 399.

Juror after he is ſworn, upon cauſe may be removed by the Juſtices, *Lam.* 400.

Jury after ſwearing adjourned to another time, may be then ſworn again, *ibid.*

Jurors of enquiry muſt be twelve, but there may be more, and it is beſt to have them odd, *Lam.* 400.

If twelve Jurors do agree, the reſidue cannot gain-ſay, *ibid.*

Juries of enquiry ought not to be committed to a keeper, nor kept without victuals, nor carried out of the town, but may be adjourned to another place to give up their verdict, *Lam.* 400.

Jurors which do wilfully conceal offences preſentable, and which be complained of by bill, may be enquired of by perſons whereof every one may diſpend forty ſhillings *per annum*; and ſuch concealment being found within a year after, every Juror ſhall be amerced in open Seſſions, 3 *Hen.*7.*c.*1. *Lam.*400,401.

Jurors that diſcover what they have done, are to be fined, *Lam.*402.

Jurors

Juror taking any thing to make a favorable preſentment, ſhall be impriſoned and ranſomed, *Lam.*441. *Cro.*84.a. 5 *El.*3 .*c.*10.

No Juror to be returned without an addition whereby he may be known, 27 *El. c.*7. *Lam.*432.

Vide plus Challenge.

Juſtices of the Peace.

Juſtices of Peace were created, 1 *Ed.*3.*c.*15. *Dal.*6. *Lam.* 20.

Juſtice of Peace is a Judge of Record, *Dal.* 7. *Cro.*120.a. *nu.*1. *Lam.*62.

He may take a recognizance of Peace, which none can do but a Judge of Record, *Dal.*8. *Lam.*186. *Crom.*196. a. *num.*1.

His warrant is not diſputable by the Conſtable, but it is to be underſtood when the Juſtice of Peace hath juriſdiction of the cauſe, *Dal.*8. *Cro.*147.b. *Lamb* 65,91.

His teſtimony in ſome caſes is of as great force and in ſome caſes greater then an indictment of 12 men upon oath, as in the caſes of force, riots, preſentments of high-waies, *Dal.* 9. *Lam.* 65.

The authority granted to Juſtices of Peace by commiſſion, doth determine by death of the King, or at the Kings pleaſure. As to be diſcharged by Writ under the Great Seal. 2. By *Superſedeas.* 3. By granting a new commiſſion and knowledge thereof, *Dal.* 11. *Crom.*188. a. *Lam.*69.

2. By publiſhing the new commiſſion at Aſſizes or Seſſions, or any County Court.

3. By holding open Sessions by virtue of the new Commission, *Da.* 11. *Cr.* 188. a. *La.* 69.

4. "By accession of another office, as being "Sheriff or Coroner of the County, *Cro.* 121. "*nu.* 13, 14. but so doth not the addition of "a greater name of dignity, as Knight, Serjeant at Law, *Cro.* 188. a.

Exercising the office of a Justice of Peace before oath taken, is fineable, *Dal.* 15, 352.

Justice of Peace hath not authority but in the County where he is Justice, *Dal.* 23.

Justice of Peace is not to meddle with offences done out of the County, except some statute enable him, or some matter of Peace or Felony, *Dal.* 23. *Cro.* 120. b. *nu.* 12.

Justice of Peace is not to intermeddle in any City or Corporation which have their proper Justices, *Dal.* 23. *Crom.* 8. a. *nu.* 30. 181. b. 189. a. *Lam.* 47. *Cro.* 121. a. *nu.* 20. 1 & 2 *P. & M. c.* 18.

Justices of Peace ought not to execute their offices in their own case, *Dal.* 352. *Cr.* 68. a. *nu.* 4. Yet a Justice of Peace being assaulted, may commit the offender to prison, *Cro.* 68. a. *Lam.* 134. *Dal.* 352.

So *Crompt.* thinketh that a Justice of Peace may record a forcible entry made upon his own possession, and commit the offender, *Cro.* 67. b. 58. a. *nu.* 4.

Justice of Peace chargeth one that maketh an assault or affray; to keep the Peace; who answereth he will not; the Justice of Peace may bind him to his good behaviour, *Dal.* 195.

Justice

Justice of Peace must proceed by the prescript of the commission and statute, *Dal.*20.

Where the statute referreth the trial, &c. to the Justice of Peace his discretion, it seemeth he may examine upon oath, *Dal.*22.155.

One Justice of Peace ought not to bind one to appear at the Quarter Sessions, to answer his fault committed against a penal law, except the stat. of Labourers, *Lam.*187. *Dal.*339.

Every Justice of Peace is a conservatour of Rivers within his County, *Lam.*189.

Justice of Peace not giving remedy to the party grieved in a cause that may be heard, determined, and executed by him, upon complaint to the Judges of Assize, or the Lord Chancellour, is to be put out of commission by the Lord Chancellour, and punished according to his desert, 4 *H.*7.*c.*12. *Lam.*370. *Cro.*120.b. *nu.*6. *Dal.*353.

One Justice of Peace may command fresh suit, Hue and Cry, and search to be made by officers and others, after thefts, robberies; injoin watches for the arresting of suspected persons and night-walkers; high-waies to be enlarged; that two Constables be chosen in every Hundred; forbid Fairs & Markets in Churchyards; command all between 15 and 60 to be sworn to the peace; charge the Constable to arrest all such as be suspected to be drawlatches, wasters, or robbers of men, *Lam.*185.

Justice of Peace taking bond in his own name, and not *Domino Regi*, in a cause touching the King, is to be imprisoned, 33 *Hen.*8.*c.*39. *Lam.*102, 143.

Justices of Peace at their Sessions are of equal authority, *La.*385. *Vid. Cr.*122. a. *nu.*33.

Justice of Peace must send his prisoners to the common Gaol, *Lam.*133. 5 *H.*4. *c.*10.

A felon is brought before a Justice of Peace upon suspicion: though it appear to the Justice he is not guilty, yet he may not set him at liberty, but so as he may come to his trial, *am.*233. *Dal.*279,304,353. *Cro.*40.b. *nu.* 20. otherwise it will prove a voluntary escape in the Justice; for he is not to be delivered by any mans discretion, *Dal.*8. *Lam. ut supra.*

A man is arrested for felony by a Constable or other, who afterwards hath knowledge that there is no such felony done, the opinion of *Keble, Conisby,* and Serjeant *Fowick* was, that he might set him at liberty: but if one be killed, and another be arrested for suspition, though after he know the arrested is guiltless, or was arrested for malice, he ought not to set him at liberty, but must be delivered by course of law, otherwise it is felony, *Cro.*40. *nu.*20.b.

"Justice of Peace dwelleth, or is in another "county, he cannot cause one to be brought "before him out of the county where he is "Justice into another County, *Dal.*23. *Cro.* "120.b. *nu.*12.

What things Justices of Peace ought to do ex officio.

Record a demurrer upon the evidence, *L.*539.

Give day to the party to bring in a Record that is before other Justices, which is pleaded by way of justification, *Lam.*539.

If

If thinking an inditement to be void, they have discharged the prisoner, paying his fees; yet (upon change of their opinion) they may stay him any time before judgment, *Li.*540.

Justices of Peace ought not to suffer the King to be disadvantaged, if they may lawfully prevent it, *Lam.* 540.

In absence of the Kings Attorney, the Justices of Peace may take issue with one that pleadeth a pardon, that he is one of the parties excepted, *Lam.*540.

Justices of Peace cannot acquit felons by proclamations; but if no prosecution be, they are to keep them till the coming of the Justices of Gaol-delivery, *Lam.* 550.

Justices of Peace may enquire of all manner of felonies at the common law, or given by any statute, and of all manner of trespasses done against the peace of the King, and of such trespasser wherein action of the case will lie for trespass or deceit; for in the end of the Writ grounded upon the case, it is contained *contra pacem nostram*, *Cro.*8. a.*nu.*25.

"Justice of Peace shall be punished for con-"spiring with another to indict a stranger at "the Sessions: but not for a thing done by "him in Sessions as a Judge, *Cr.*122.a.*m.*32.

One Justice of Peace rebukes another; neither he, nor any of his fellow Justices, can commit him, for all are by one authority; and therefore hath no remedy if the King will not remove him: but if one Justice abuse another in open Sessions, it seems the rest may bind him to the Peace, *Cro.*122.a.*nu.*33 134.b.*Li.*385.

Defaults againſt the ſtatute of 3 *Hen.6.c.11.* for levying of wages for Knights of the ſhire, are to be heard and determined by enquiry for the King, or action for the party before the Juſtice of Peace, *Lam.* 512.

"Juſtice of Peace needs not ſhew his commiſſion, by which he is made Juſtice, when "he juſtifieth the doing of any thing as a Juſtice; for he is Juſtice of Record, and the "commiſſion remaineth with the *Cuſtos rotulorum* of the ſaid County, and he is called by "the commiſſion in open Aſſizes and Seſſions, *Cro.*120.b.*nu.*13. *Lam.*387.

"Juſtice of Peace hath a Record in his "hands, and is diſcharged of his office, he "cannot certifie the ſame without a Writ of "*Certiorari*, although he be made Juſtice "afterwards, *Cro.*121.a.*nu.*15.& 132.a.

"Juſtice of Peace may have his action of "the Caſe againſt him that calleth him *Falſe* "*Juſtice of the Peace.* It ſeemeth alſo, that he "may be indicted: for they may enquire of all "treſpaſſes, where a man may have his action "of the Caſe, *Cro.*121.a.*nu.*21.& 122.a.n.19.

"*Quicquid Juſticiarius fecerit de Recordo,* "*ignoranter & pro defectu ſcientiæ, non erit pro* "*opunitus. Sicut accidit de Seneſchallo liber-*"*tatis Abbatis de Crowland, qui colore libertas*"*tis de Infangthefe, judicavit hominem mori* "*contra legem: pro eo libertas ſeiſita fuit in* "*manus Regis, & nulla pœna Seneſchallo,* Cro. 121.b. nu. 24.

"*Juſticiarius non poteſt puniri pro re per ip-*"*ſum facta judicialiter: ſed Officiarii, ut Vice-*

"*comes,*

"*comes & alii Officiarii de Recordo erunt*
"*puniti*, Cro. 122. a. nu. 28.

"Just. of P. certifieth into the Kings Bench,
"that such a man broke the peace in his pre-
"sence, the party shal be put to his fine with-
"out any Traverse to the same, *Cro.* 132. a.

"Just. of P. who is of the *Quorum*, ought to be
"resiant within the County where he is Just.
"of the *Quorum*, 2 *H.* 5. *c.* 4. *Cro.* 122. a. *nu.* 34.

"Justice of Peace was put out of commis- *nota*
"sion *in Camera Stellata*, for that he refused
"to take surety of the peace of one that came
"before him, who offered to find surety of the
"peace; for that the Justice which granted the
"warrant was not his friend, and thereupon
"would not go before him to be bound, *Cro:*
"*Jurisd. of Courts*, 31. b.

"One Just of P. upon his view of forcible
"detainer may record the same by 15 *R.* 2. *c.*
"2. but in case of Riot or Rout, &c. there
"must be two Just. of P. with the Sheriff or
"Under-Sheriff, 13 *H.* 4. *c.* 7. *Cro.* 61. b. *nu.* 9.

"Justice of Peace commandeth one upon
"pain of 10 li. by his precept, to be at the
"next Q. Sessions, and he appeareth not: No
"*Scire facias* shall go forth more then if
"there had been a *Subpœna*: but it seemeth
"that he shall be attached to be at the next
"Sessions, upon contempt, *Cro.* 123. a. *nu.* 9.

"An affray is made within a Corporate
"Town, whilst the Sessions be held there,
"and that Town hath Justices within it self;
"the Justices of Peace shall not intermeddle
"there: but otherwise it is at the Assizes,
"*Cro.* 146.

Labourers and Servants.

ONe Justice of Peace may cause all artificers and other persons meet to labour by his discretion, to work by the day in hay and corn-harvest time, or imprison the refusers in the stocks for two daies and one night, 5. *El. c.* 4. *Dal.* 77. *Lam.* 475.

The Constable refusing to stock them, loseth 40 shill.

One Just. of Peace under his hand and seal may licence laborers in hay and harvest time to go into another county to work, *Dal. ibid.*

One Justice of Peace upon complaint, may compel meet persons to be bound as apprentices to husbandry, or any other art, &c. and for refusal, commit them to ward, there to remain untill they be bound to serve according to the statute, *Dal.* 77. 5 *El. c.* 4.

One Justice of Peace may take order betwixt the master and apprentice: for want of conformity in the master, bind him over to the quarter Sessions, where four Justices, one being of the Quorum, may discharge the apprentice: and if fault be in the apprentice, inflict due correction, *Dal.* 78. but if the first Justice find fault in the apprentice, *quære* if he may by 7 *Jac. c.* 4. send him to the house of Correction, as an idle disorderly person, *Dal.* 78.

One Justice of Peace may allow of the cause of putting away of a servant, or of his departure.

partute within his term, *Dal.*70. 5 *Eliz.c.*4.

But an apprentice muſt be diſcharged by four Juſtices of Peace in open Seſſions, *ibid.*

One Juſtice of Peace may command vagrant perſons to priſon, if they will not ſerve, *Dal.*81.

One Juſtice of Peace may make his Warrant to attach a ſervant departing, to be at the Seſſions, or may ſend him to the houſe of Correction, *Dal.* 78.

Two Juſtices of Peace, upon complaint that a ſervant departed before the end of his term (except 1. cauſe be allowed by one Juſtice of Peace; or 2. at the end of his term, without one quarters warning before two witneſſes; or 3. hath refuſed to ſerve for the wages appointed by proclamation, according to the ſtatute; or 4. hath promiſed to ſerve accordingly, and doth not) may examine the matter, and may commit without bail, ſuch faulty perſon till he be bound to ſerve and continue, and then he is to be diſcharged without fee to the Gaoler, *Dal.*79. *Lam.*330.

Two Juſt. of the P. may impriſon the maſter for 10 daies without bail, and the ſervant for 21 daies, that giveth or taketh greater wages then are allowed by ſtatute, *Dal.*80. *Lam.* 330. and the maſter loſeth 5 li. 5 *El.c.*4.

All retainer, promiſe, or paiment of wages, or any other thing contrary to ſtatute, and every writing and bond for that purpoſe is void, 5 *El c.*4. *Dal.*79.

Two Juſtices of Peace may impriſon for a year or leſs, any ſervant, workman, or labou-

rer,

rer, that doth make assault, or affray upon his master, or any that hath the charge or oversight of them, or of the work, being proved by the confession of the party, or oath of 2, *D.*79

Or the Justices at the Sessions may inflict other punishment.

One Justice may binde the offender to the good behaviour, and so to the next Sessions, *Dal.* 79. *Lam.* 330. & 473.

Two Justices may compell any woman of the age of 12 & under 40 being unmarried, to serve by the year, week, or day, for such wages as they shall think meet, or commit her to ward till she be bound, *Dal.*80. *L.*330. 331.

The retainer of any to serve in the arts of clothing, Wool-weaver, Tucker, Fuller, Cloth-worker, Sheerman, Dier, Hosier, Tailor, Shoomaker, Tanner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Farrier, Currier, Sadler, Spurrier, Turner, Capper, Hat-maker, Felt-maker, Bowyer, Fletcher, Arrow-head-maker, Butcher, Cook, or Miller for less then a year, is void, 5 *El.* c. 4. *Lam.* 473. *Dal.*79.

"No person shall interrupt, deny, let or dis-
"turb any free or rough Mason, Carpenter,
"Bricklayer, Plaisterer, Joyner, Hard-hewer,
"Sawyer, Tiler, Pavier, Glasier, Lime-bur-
"ner, Brick-maker, Tile-maker, Plumber, or
"Labourer born in the Realm, or any Deni-
"zon, to work in any of the said crafts, in any
"City, Borough, or Town Corporate, with
"any that will retain him or them, though
"they do not inhabit or be free there, upon
"pain of 5 li. the one moiety to the King, the

"other

other to the Informer, 5 *Edw. 6. cap.* 15.

Any unmarried, or under thirty years and married, are compellable to ſerve in any of the ſaid arts, or to be impriſoned until they will ſerve, 5 *El. c.* 4. upon requeſt of any perſon uſing the ſaid trades, except the perſon be lawfully retained with ſome other, or have 40 ſhillings *per annum* in lands, or 40 pound in goods, or ſome farm in tillage. *Lam.* 473. *Dal.* 79.

None retained in husbandry to depart at his time into any other limit, town or pariſh, without teſtimonial, on pain of 21 dayes impriſonment, and to be whipped, if then he brings none; and receiver of ſuch loſeth 5 l. *Lam.* 474. *Dal* 85.

Labourers not working ſo many hours as they ought loſe 1 d. an hour, *Lam.* 474. 5 *El. cap.* 4.

Servant falling ſick, or *non potens corpore*, the maſter may not put him away, nor abate his wages, *Dal.* 84.

Any taking work by great, and departing unlawfully before the work be finiſhed, loſeth 5 pound, and is to be impriſoned for a month, *Lam.* 474. 5 *El. c.* 4.

Any taking an apprentice contrary to order of law, or exerciſing an art not being apprentice therein 7 years, loſeth 10 pound, 5 *El. c.* 4. *Lam.* 475. *Cro.* 83. a.

Servant departing into another ſhire, is indicted for it in the County whence he departed; the Juſtices of Peace may award a *Capias* to the Sheriff of that Shire whereunto he depar-

departed, returnable before themſelves, 5 *El. c.* 4. *Lam.* 525.

The ſufficiency of the cauſe of the maſters putting away of his ſervant, or the ſervants departing from his maſter within his term, muſt be proved at the Quart. Seſſions, *Lam.* 610. 5 *El. cap.* 4.

Houſhold ſervant ſpoileth the goods of his deceaſed maſter, and after proclamation in the Kings Bench maketh default of appearance there; it is felony, but not enquirable by the Juſtices of Peace, 33 *H.* 6. *c.* 1. *Lam.* 281, 548. *Dal.* 266.

A man not able nor ſufficient to keep a ſervant, doth retain a ſervant; ſuch retainer is void, *Dal.* 82.

Retainer of a ſervant in husbandry without expreſſing any term, ſhall be for one year, *Crom.* 184. a. *Dal.* 83. it is according to the ſtatute, 5 *El. c.* 4.

One retaineth a ſervant for 40 dayes, and afterwards another retaineth him for a year; the firſt retainer is void. *Cro.* 184. a. *Dal.* 83.

A ſervant cannot be diſcharged by his maſter without his own agreement, or for ſome cauſe allowed by a Juſtice of Peace. *Dal.* 84.

An apprentice cannot be diſcharged by his maſter but by writing, for an apprentice cannot be but by writing. *Dal.* 85. *Crom.* 184. b. 185. b.

A ſervant put away ſhall have his proportionable wages for the time he ſerved, but it muſt be by the help of a Juſtice of Peace. *D.* 84.

As

A ſervant of his own accord departing from his ſervice, loſeth all his wages. *Dal.* 84.

A ſervant refuſing to do his ſervice, it is a departure in law, though he ſtay ſtill with his maſter, *Dal.* 84.

Detaining of wages, or of meat and drink, is good cauſe of departure, but to be allow d by a Juſtice of Peace. *Dal.* 84. *Cro.* 185. a.

A woman married after ſhe is retained, muſt ſerve out her time, *Cro.* 184. b. *Dal.* 82.

No ſervant in husbandry, artificer, or victualler, nor any labourer ſhall carry any buckler, dagger, or ſword, on pain to forfeit the ſame, but for defence of the Realm, or travelling with their maſter, or about their maſters buſineſs. 12 *R.* 2. *c.* 6. *Cro.* 185. b. 76 b.

Any two Juſtices of Peace may give their conſents with the Churchwardens and overſeers, or the greater part of them, to bind as apprentices the children of poor parents, till the age of the man-child of 24, and of the woman till 21. 39 *El.* 3. *Iam.* 331. 43 *El. c.* 2. *Dal.* 83.

Retainer according to the ſtatute, though no wages be ſpoken of, is good, and ſhall have wages according to the proclamation. *Dal.* 84.

Retainer not being according to ſtatute, is void, except it be by Indenture. *Dal* 84.

Retainer upon condition is good. *Dal.* 84.

Retainer without expreſſing in what office, is good, *Dal.* 84.

Retainer for life is good, *Dal.* 84.

Retainer for a year to ſerve when he ſhall be

be required, is not good, *Dalton* 84.

By Retainer the ſervant is preſently in ſervice, though he come not into his maſters ſervice indeed, *Dal.* 84.

The executor (the maſter dying) muſt pay wages to the ſervant hired according to the ſtatute, not otherwiſe, except it be by Indenture, *Dal.* 84.

Larceny.

Larceny is the felonious and fraudulent taking another mans perſonal goods, removed from his body and perſon, without his will, to the end to ſteal them, *Lam.* 272. *P. R.* 129.

Perſonal goods are
- Wholly anothers
  - Dead,
  - Alive,
- His own, yet alſo a property in another.

Dead goods,
- In their own nature chattels, as money, plate, houſhold-ſtuff, *Lamb.* 273. wool ſevered from the ſheeps backs, to take the skin and leave the body, the fleſh of tame or wild fowl or beaſt, *Lambert* 275. goods of the Church, Pariſh, or of an unknown perſon, *Lam.* 276.
- Once no chattels, and made chattels by the owner, as mowed corn, mowed hay, wood felled, apples gathered, &c. *Lam.* 276.

Tame,

Alive, { Tame, as horſes, beaſts, ſheep, ſwine, pullen, *Lam.* 273, 274.
Wild, and made tame by { Art, Reſtraint of liberty

By art, as { A tame Deer by Common law, *Lam.* 274.
By ſtatute, a falcon, tarcelet, lanner, lanneret, loſt without bringing it to the Sheriff to be proclaimed, *Lam.* 274.

By reſtraint of their liberty, as young pigeons, young herons, young hawks out of their neſts, fiſh in a trunk, ſtew, or pond. *Lam.* 274.

A mans own goods, { Where he hath given a ſpecial property to another, as by bailment, pawning, &c. and felonioufly taketh it again, *Lam.* 277. *Dal.* 270.
Where one comming lawfully to the poſſeſſion, by lending altereth the property, as by melting of borrowed plate, and the lender taketh the mettal felonioufly, *Lam.* 277. *Dal.* 270.

In what goods Larceny cannot be committed.

In goods of { Profit, Pleaſure.

Goods of profit, as where is { An owner: & they are { Real. Perſonal.
No owner, as treaſure-trove, wrecked, ſtrayed, *Lam.* 276.

Real

Real are { Distinct from the free-hold, as charter of land or a ward, *La.*275. Annexed to the free-hold, as apples on the tree, a tree growing, lead from a house or from a Church, *Lam.*276.

Personal, as wild things using their wildness, as pigeons flying, hawks not reclaimed, fishes in the River, *Lam.* 274. pheasants, partridges, hares, Conies, herons, swans, or deer that are abroad, *Lam.*275. *Dal.*270.

Goods of pleasure, as dogs, apes, parrots, singing birds, a diamond, ruby, or other stone not set in gold or silver. *Lam.*275. *Dal.* 269.

Larceny is { Grand larceny, Petty larceny.

Grand larceny is, where the thing stolen is above the value of 12 pence, and is punishable by death, *Dal.*262.

Petty larceny, if the thing stolen exceed not 12 pence, and is punishable by the discretion of the Justices before whom he is arraigned, and forfeiteth his goods. *P. R.* 129. *Dal.* 262.

Divers petty larcenies put in one indictment, and above the value of 12 pence, are punishable by death. *P.R.*129. *Lam.*273. *Dal.* 263.

Divers found guilty of one larceny above 12 pence, they all must dye for it, for that felony is several in law, even as these others were severed in act, *Lam.*273. *Dal.*263.

What

What acts do amount to larceny.

To carry away the plate delivered to me in a tavern to drink in, *Lam.*278.*Cro.*35.b.*nu.*4. *Dal.* 263.

To carry thoſe things one is hired to carry, to another place then he was hired, and there felonioufly to convert them to his own uſe, *Lam.*279.*Dal.*264.*Cro.*36.a.*nu.*10.

A ſervant not being an apprentice to go away with the goods of his maſter above 40 ſhillings which were in his cuſtody, *Lam.*279, 280. *Dal.* 264.

Carrier to convey away or convert to his own uſe the goods after they are brought to the place appointed by the owner, *Dal.* 264. *Lam.*279.

He to whom the key of ones chamber-door is delivered, openeth the door and taketh away the goods, *Lam.*279 *Dal.*266.

A ſervant receiving 20 pound in gold of his maſter to keep, changeth it into ſilver, and runneth away with it; for gold and ſilver are both of one nature, *viz.* mony. *Dal.* 265. *Cro.* 50. a. *Lam.* 280.

A gueſt is harboured, who carrieth away his ſheets out of his Chamber, with purpoſe to ſteal them and is taken in the houſe, *Dal.* 266.*Cro.*35.a.*nu.*2.*Lam.*281.

One ſervant runneth away with the goods of his maſter delivered unto him by his fellow-ſervant to the value of 40 s. or converteth them to his own uſe. *Dal.* 265, *Cro.*50.a. *Lam.*281.

A Carrier imbezels part of the goods committed to his charge, *Dal.* 264. *Cro.* 36. a. *nu.* 11.

A servant receiveth of his master a piece of cloth to keep, and he maketh a garment thereof, and goeth away therewith, *Cro.* 50. a. *Dal.* 265, 266.

A servant taketh away or spoileth the goods of his deceased Master; upon default of appearance in the Kings Bench after Proclamation, it is felony, *Dal.* 266. 33 *H.* 6. *cap.* 1. *Lam.* 281.

Taking an horse feloniously, and apprehended before he get the horse out of the close, *Lam.* 282. *Dal.* 267.

The husband shall not be punished for theft done by his wife, he not knowing thereof, or if after knowledg he presently forsake her and his house, *Lam.* 282.

What acts do not amount to Larceny.

One having goods bailed unto him, converteth them all to his own use, *Cro.* 36. a. *nu.* 11.

A Carrier conveyeth the goods to another place then he was hired, and here converteth them to his own use, *Lam.* 278. *Dal.* 264. *Cro.* 36. a. *nu.* 11.

An obligation or wares delivered to a servant, who receiveth the money, or selleth the wares, and runneth away with the money, *Dal.* 265. *Cro.* 35. b. *nu.* 50. a. *Lam.* 280.

A wife stealeth goods in the company of her

her husband, or by his command; *quære* if it be without his compulsion, *Lam.* 282. *Dal.* 272.

A wife stealeth the goods of her husband, and delivereth them to another that knoweth thereof, it is larceny in neither, *Lam.* 282. *Dal.* 272.

Goods stolen by an infant under 12. a lunatick during his lunacy, a mad-man, and deaf and dumb, *Lam.* 282. *Vide Dal.* 273.

Riding away with a lent horse, *Dal.* 264.

A clothier delivereth wool or yarn to his work-folks, who imbezel or sell part thereof, *Dal.* 264.

Goods delivered to another to keep, and he consumeth them, or converteth them to his own use, *Dal.* 264. *Lam.* 278.

So money or goods delivered to one to deliver to a third person, and the first receiver flyeth away with them, or converts them to his own use, *Dal.* 264.

A servant hath a horse delivered by his Master to ride to market, or mony to go to a fair to buy cattel or other, or to pay to another man, and the servant goeth away therewith; *quære* if it be felony by statute, *Dal.* 265.

A receiver receiveth his masters rents, and goeth away with them, *Dal.* 266. *Cro.* 50. a.

Leather.

A Butcher that gasheth, slaughtereth, or cutteth the hide of the oxe, steer, bull, or cow, whereby it is impaired, loseth 20 pence; or that watereth any hide except in June, July, or August;

Auguſt, or putteth to ſale any putrified or rotten hide, loſeth for every hide 3 s. 4 d. 1 *Jac.* 22. *Lam.* 462.

Butcher uſing the ſaid craft and alſo the myſtery of tanner, loſeth every day 6 ſhillings 8 pence, *ibid.*

Tanner uſing alſo the myſtery of a ſhomaker, currier, butcher, or any artificer uſing the cutting or working of leather, loſeth the hides and skins tanned, *ibid.*

Every perſon, other then ſuch as had a tanhouſe 29 *Martii* 1603. and did then occupy tanning of leather, or hath been taught as an apprentice or hired ſervant 7 years in that myſtery, or hath been wife or ſon of a tanner brought up in this myſtery 4 years, or the ſon or daughter of a tanner, or ſuch as hath married the wife or daughter of a tanner, having left to them his tan-houſe and fats, that tanneth any leather, or taketh any profit by tanning, loſeth all the leather tanned by him, *Lam.* 462, 463. 1 *Jac.* 22.

None may buy, contract for, or beſpeak any rough hides or calves-skins, but only tanners or tawers of leather, except ſalt hides for the neceſſary uſe of ſhips, on pain of ſix ſhillings eight pence for every hide, 1 *Jac.* 22. *Lam.* 463.

None ſhall foreſtal any hides coming to fair or market, (except of ſuch as kill for the proviſion of their houſe) on pain of 6 s. 8 d. for every hide, 1 *Jac.* 22.

None may buy tanned leather nor wrought, but ſuch as will convert the ſame into made ware,

wares, (except necks, and ſhreds of ſadlers and girdlers) upon loſs of all the leather, *Lam.* 463. 1 *Jac. c.* 22.

Tanner ſuffering any hide to lye in the tan-limes till the ſame be over-limed, or that putteth any hides into the tan fats before the lime be perfectly wrought out of them, or uſeth any thing in tanning but onely Aſh-bark, Oak-bark, Tapweart, Malt, Meal, Lime, Culver-dung, or Hen-dung, or hath ſuffered his leather to be frozen, or to be parched with the fire or ſummer ſun, or hath tanned any rotten hides or hath not ſuffered the hides for outward ſole leather to lye in the woozes twelve months, and for the upper ſole-leather nine months, or hath negligently wrought the hides in the woozes, or hath not renewed their woozes as oft as [illegible] requiſite, or hath put to ſale any tanned leather, not wrought according to the Statute, ſhall loſe the hides or value of them. 1 *Jac. cap.* 22. *Lam.* 463, 464.

Tanner that raiſeth with any mixtures any hides to be converted to backs, bend leather, clouting-leather, or any other ſole-leather, except the ſame be fit and ſufficient for that uſe, loſeth the hides. 1 *Jac. cap.* 22. *Lam.* 464.

Any that putteth to ſale, exchangeth, or otherwiſe departeth with any tanned leather red and unwrought, being in open fair and market, unleſs it be ſearched and ſealed in ſome open fair or market, or putteth to ſale any leather not ſearched and ſealed according

to

to the ſtature, loſeth for every hide or piece of leather ſix ſhillings eight pence, and alſo for every twelve calves skins or ſheep-skins, three ſhillings four pence, and alſo the hides and skins or their value, 1 *Jac. cap.* 22. *Lam.* 464.

Tanner putting to ſale any leather inſufficient, or not throughly wrought and tanned, or not well and throughly dryed, and the ſame ſo found by the tryers appointed, 1 *Jac. cap.* 22. loſeth ſo much as is inſufficient, *Lam.* 464.

He that ſetteth his fats in tan-hills or other places where the woozes or leather to be tanned in the ſame may take any unkind heats, or hath put any leather into warm woozes, or hath tanned with warm or hot woozes, forfeiteth ten pound, and is to ſtand in the pillory three market dayes, 1 *Jac. c.* 22. *Lam.* 464.

Felling Oaks meet to be barked where bark is worth two ſhillings a load, above the charges of barking and pilling, (timber for neceſſary buildings, and reparations of ſhips, houſes, or mills excepted) but between the firſt of April, and the laſt of June, loſeth every tree or double the value, 1 *Jac. c.* 22. *Lam.* 464, 465.

Currier that curriet h any leather but in his own houſe ſcituate in a corporate or market-town, or hath curried any leather not well tanned, or not throughly dried after his wet ſeaſon, or hath uſed in ſuch wet ſeaſon any deceitful means to corrupt the ſame, or hath curried any outward ſole-leather with

any

any other ſtuff then hard tallow, or leſs of that then the leather will receive, or inner ſole-leather, or upper leather, but with good ſtuff being freſh and not ſalt, or hath not liquored them throughly, or hath ſcalded or ſhaven too thin, or gaſht in ſhaving, or otherwiſe, or not wrought ſufficiently any leather, loſeth ſix ſhillings eight pence, and the value of every skin marred, except gaſhing in ſhaving, and for ſuch gaſhing double as much as the leather is impaired, 1 *Jac.* c. 22. *Lam.* 465.

Currier that during the time that he uſeth currying, uſeth the ſeat of a Tanner, Cordwainer, Shoomaker, Butcher, or other Artificer uſing cutting of leather, loſeth 6 ſhil. 8 pence each Hide, *ibid.*

Currier refuſing to curry within 8 daies in ſummer, and 16 daies in winter, perfectly any leather brought by any cuter of leather, or his ſervant, bringing with him good ſtuff for perfect liquoring of the ſame, loſeth 10 ſhil. for every hide.

Shoomaker that maketh any Boots, Shoos, Buskins, Startups, Slippers, or Pantofles, or any part of them of Engliſh leather wet curried, (other then Deer, Calves, or Goats-skins dreſſed like Spaniſh leather) but of leather well tanned and curried, or well tanned only, and well ſewed with thred well twiſted, waxed, and roſined, with the ſtitches hard drawn with hand-leathers, without mixing neat and calves leather in the over-leather thereof; or hath put into any ſhooes, boots,

&c. any leather made of ſheep-skins, bull-hide, or horſe-hide, or into the upper-leather of any ſhooes, ſlippers, or pantofles, or into the nether part of boots, (the inner part of the ſhooes only excepted) any part of the womb, ſhank, neck, flank, pole, or cheek of any hide, or into the outer ſole other then the beſt of the Ox or ſteer hide, or into the inner ſole other then the neck, womb, pole, or cheek; or in treſwels of the double-ſoled ſhooes other then the flanks of any the ſaid hides; or hath put to ſale any year between the laſt of *September* and the twentieth of *April*, any ſhooes, boots, &c. meet for any perſon above four years old, wherein hath been any dry Engliſh leather, other then calves or goats skins dreſſed like Spaniſh leather; or hath ſhewed for ſale any of his wares upon Sunday, loſeth 3 ſhil. 4 pence for every pair, and the juſt value, 1 *Jac. cap.* 22. *Lam.* 465, 466.

Every lord of fair or market, that doth not appoint and ſwear yearly two or three honeſt and skilful men to be ſearchers and ſealers of leather there, and ſix honeſt and expert men to try the ſame leather, loſeth 40 pound, *Lam.* 466. Such triers as do not their duties therein without delay, loſe 5 pound for every default, *Lam.* 467.

Searcher or ſealer ſo appointed, refuſing with ſpeed to ſeal good leather, or allowing inſufficient leather, loſeth 40 ſhillings; or receiving any bribe, or exacting any undue fee for execution of his office, loſeth for every offence

offence 20 pound; or refusing to execute the said office, being duly elected, loseth 10 pound, *Lam.* 467.

He that will not suffer a searcher to enter into any place to search tanned leather, or wrought wares, or to seize or carry away that which is insufficient, or hath put away any tanned leather red and unwrought, without registring the same, and the price thereof, loseth the value of the leather, *Lam.* 467. 1 *Jac. cap.* 22.

Leets.

Steward of a Leet cannot grant surety of the Peace, unless it be by prescription; but he may commit him to ward that shall make an affray in his presence whilest he is in execution of his office, or bind him to the peace, or to his good behaviour, *Lam.* 14.

He may also take presentment of an offence against the peace, *ibid.*

"In every leet or market, there ought to "be a pillory and tumbrel, and for want "thereof, the Lord of the leet or market shall "make a fine to the King, *Dal.* 151. *Cro.* 149.

Lent, *vide* Fish-daies.

Liberties and Franchises.

"Liberties and Franchises be such which "have return of Writs, and not such as are "Counties of themselves, as *London*, *York*, "*Norwich*, &c. nor Towns which have by "grant of the K. Just. of P. so that no other

" Juſt. do intermeddle, *Cro.*8. a. nu.30.*Dal.* " 23. 2 & 3 *P. & M. c.* 18.

Juſtice of Peace may execute his authority within any liberties, not being a county within it ſelf, and it is good, but the liberty may have their remedy againſt him, *Lam.*47. 48. *Dal.*23. *Cro.*8.a.nu.30.181.b.189 a.

Libellers.

A man finding a Libel againſt a private man, muſt preſently burn it, or deliver it to ſome Magiſtrate, *Dal.* 195.

If againſt a Magiſtrate or publick perſon, to deliver it to ſome Magiſtrate, that by examination the Author may be found out, *Dal. ibid.*

Libellers (it ſeemeth) may be bound to their good behaviour as diſturbers of the peace, whether they be contrivers, procurers, or publiſhers of the libels; for ſuch libelling and defamation tendeth to the raiſing of quarrels and effuſion of bloud, and ſpecial occaſions to the breach of the peace, *Dal.* 194.

Libelling is by ſcandalous writings, by book, ballad, epigram, or rhime; 2. by ſcandalous words, as ſcoffs, jeſts, taunts, or ſongs; 3. by hanging up of pictures or ſigns of reproach near the place where the party traduced doth converſe moſt, as gallows, cucking-ſtool, pillory, horns, or ſuch like, *Dal.*194. *Cook* 5. *fol.*125.

Liceaſed,

Licenſes.

Two Juſtices of the Peace may licence poor diſeaſed perſons to travel to the Baths for remedy of their grief, ſo as they be provided of relief for their travel, and beg not, 39 *El.c.*4. *Dal.*101. *Lam.*332. 1 *Jac.c.*25.

Juſtice of P. dwelling near where any perſon having ſuffered ſhiprack ſhall land, may and ought to make a teſtimonial under his hand to ſuch perſons of the landing, &c. and thereby to licence them to paſs the next direct way to their place of birth or dwelling, and limit them a convenient time for their paſſage, *Dal.* 100,127. *Lam.*303. 39 *El.c.*4. 39 *El c.*17. 1 *Jac.c.*25.

No Juſtice or Juſtices of Peace (as it ſeemeth) can in any caſe licence any poor man to wander, or beg at all, *Dal.*101,127. *Lam.* 303. 39 *El.*4.*c.*17.

Convicted for abuſing of a licence of tranſportation of victual, ſhall be committed for a year without bail or mainpriſe, *Lam.*349. 1 & 2 *P. & M. c.*5.

Licenſes for badgers, drovers, &c. are to be granted in open Qu. Seſſions by three Juſt. of P. whereof one of the Quo. and ſhall not endure above a year, unleſs the ſame be yearly renewed, 5 & 6 *Ed.*6.*c.*14. 5 *El. c.* 12. *Lam.* 610. *Vide* Badgers.

Linnen Cloth.

He that cauſeth to be uſed any racking, beating, or caſting any deceitful liquor, or other

means on any kind of linnen cloth, whereby it becometh deceitful, or the worse for use, forfeiteth such cloth, and is to have imprisonment for a month at the least, and to be fined according to the Justices discretion, 1 *Eliz.* 12. *Cro.* 90. a.

Lying in a way, *vide* Way-Lying.

Log-wood, *alias* Block-wood.

Suspected to have offended against the statute for Log-wood, upon information to a Justice of Peace, the suspect, or his servant, or work-man may be called by warrant, and examined by oath, or otherwise, to disclose the offence; and the offence being discovered, the offender and the examinates shal be bound over to the next Gaol-delivery or Q. Sessions, and there be judged to forfeit twenty pounds, and pillory one or more market-daies, or upon refusal to be bound, to be committed to the Gaol till he will be bound, 39 *El. c.* 11. *Lam.* 613. *Dal.* 48.

Any two Justices of the Peace, where any log-wood shall be found, in whose hands soever it shall be; may cause the same to be burned, 23 *El. c.* 9. *Dal.* 48. *Cro.* 198. b.

Long-bows.

"Any above the age of 24 years shooting "at standing pricks under eleven-score yards "with any prick, shaft or flight, loseth six "shillings eight pence, 33 *H.* 8. *c.* 9. *Lam.* 481.

Masons.

Maſons.

THe cauſing of Maſons to congregate themſelves in chapters, is felony, *Lam.* 127. 3 *H.* 6. *c.* 1.

Mainpriſe, *vide* Bailment.

Maintainers and Embracers.

Maintainers and embracers of a Jury enquiring of a riot, forfeit twenty pounds, and to be committed to priſon, and to remain according to the diſcretion of the Juſtices, 19 *H.* 7. *cap.* 13.

The Juſtices which ſhall ſit upon the inquiſition of riots with the Sheriff or Under-Sheriff, ought to certifie the names of the maintainers and embracers of a Jury, with their miſdemeanours which they know, by which the truth of the ſaid riot is not found, upon pain of 20 l. for every one that hath not a reaſonable excuſe, 19 *H.* 7 *c.* 13. *Cro.* 199. b.

Maintainers of quarrels and embracers of Jurours are to be impriſoned, and bound to the good abearing, 33 *H.* 8. *c.* 10. 37 *H.* 8. *c.* 7. *Lam.* 440.

Maintenance is where any man giveth or delivereth to another that is plaintiff or defendant in any action, any thing to maintain his plea, or elſe maketh extream labour for him where he hath nothing to do therewith, *Terms of the Law.*

Embracer is he that when a matter is in trial between party and party, cometh to the bar with one of the parties, having received some reward so to do, and speaketh in the case, privily laboureth the Jury, or standeth there to survey or overlook them, thereby to put them in fear and doubt of the matter: but men learned in the law may speak in the case of their Clients, *Terms of the Law.*

Maim.

He that hath maimed another of any member, whereby he is less able to fight, as if a bone be taken out of his head, or a bone broken in any part of the body, or foot, or hand, or finger, or joynt, or if a foot or any member be cut, or by some wound the sinews be made shrink, or other member, or the fingers made crooked, or if any eye be put out, or the fore-teeth broken or beat out, or any other thing be hurt in a mans body, by means whereof he is made the less fit to defend himself, or offend his enemy, he and his accessaries shall be grievously fined, *Lam.* 429. *Terms of Law.*

Justices of Peace cannot upon an endictment of maim, make the trial by their own view and inspection, as the J. of the K. Bench may do, *Lam.* 532.

If Justices of Peace stand in doubt whether the hurt be maim or not, they may use the help and opinion of some skilful Chirurgeon to consider thereof, *Terms of Law.*

" Indictment of Maim must be *filoni. & mahemavit*, *Cro.* 101. a. *nu.* 3.

Malt.

Malt.

If any Bailiff or Conſtable of any borough or other Town ſhall finde any Malt made contrary to the Statute, 2,3 *E.6.16.* & 27 *El.* 14. then with the advice of any Juſtice of the Peace within the Shire, he ſhall cauſe the ſame to be ſold to ſuch perſons, and at ſuch reaſonable prices under the common price of the Market, as to their diſcretion ſhall ſeem convenient, *Lam.* 202. *Dal.* 86. 21 *Jac. cap.* 28.

Any two Juſtices of the Peace may duly convict by two witneſſes, or by the parties confeſſion, any perſon that ſhall diſobey the reſtraint of malting made in open Q. Seſſions, and ſhall commit him to priſon without bail or mainprize for three daies, untill he become bound in forty pound to perform ſuch reſtraint 39 *El. cap.* 16. *Lam.* 332, 202. *Dal.* 86.

The Juſtices of Peace, or the greater part of them, may in open Qu. Seſſions reſtrain the converting of barley into malt, 39 *El. c.* 16. *Lam.* 613. *Dal.* 86.

Malt muſt be three weeks in the fat, on the floor ſteeping and drying, except in *June*, *July*, *Auguſt*, and then 17 daies, or loſe 20 pence for every quarter, *Lam.* 451. *Dal.* 87.

No inſufficient Malt mingled with good Malt, muſt be put to ſale, 2 & 3 *E.6.c.* 16. & 27 *El.c.* 4. *Lam* 452. *Dal.* 87.

No Malt ſhall be put to ſale that is inſufficiently trodden, and out of which for every

quarter hath not been fanned one peck of duſt, *ibid.*

Manſlaughter, *vide* Homicide.

Mariner.

Mariner coming from beyond the Seas, or a ſea-faring man having ſuffered ſhipwrack, and in want, may be licenſed by the next Juſtice of Peace to his landing, to ask relief in his Journey homewards, 39 *Elizab.* 4. *Lam.* 303. *Dal.* 127. 1 *Jac. cap.* 28.

No Fiſher-man to be taken for a Mariner by the Kings commiſſion, unleſs choſen by the two next Juſtices to the place where he is to be taken, 5 *El.* 5. *Lam.* 359. *Dal.* 87.

Mariner departing from his Captain without licence, or wandring idly without, or with a forged licence, knowing thereof, is a felon, 39 *El.* 17. *Lam.* 227.

Any poor Mariner or Souldier coming from beyond the Seas, that ſhall repair to his place of birth, &c. and cannot there get work, two Juſtices of the Peace next adjoyning may take order to ſet him to work, and for want of work, tax the whole Hundred for his relief, till ſufficient work may be had, 39 *El. c.* 17. *Lam.* 359. *Dal.* 138.

"Mariner forging a Teſtimonial, or carrying the ſame, knowing it to be forged, "it is felony, *Lam.* 228. *Dal.* 289. 39 *El. c.* 4. "*&* *c.* 17. 1 *Jac. c.* 7.

"Mariner landing, and not having a Teſtimonial under the hand of ſome Juſt. of

"Peace

"Peace near the place of his landing, ſetting "down, 1. the time and place of his landing, "2. the place to which he ſhould paſs, 3. and "the time for his travel, 4. or exceeding that "time fourteen daies, it is felony, 39 *El. c.* 17. "*Dal.* 289. *Lam.* 303. But if he have ſuch a "Teſtimonial, and purſue the ſame, he may "ask and take ſuch neceſſary relief as ſhall "be given him, 39 *El. cap.* 17. *Lam.* 303.

Vide Felony by Statute.

Market overt.

He that is owner, &c. of any fair or market where horſes, geldings, mares, or foles are to be ſold, and doth not yearly aſſign one open place where the ſaid horſes, &c. ſhall be ſold, and one to take Toll, who ſhall continue there from 10 in the morning until ſun-ſet, forfeiteth 40 ſhil. for every day, 2 & 3 *P. & M. c.* 4. *Cro.* 91. 2. *Lam.* 471.

To alter the property of any ſtrangers rights in horſes, and all other goods, they are to be ſold in ſuch a place or ſhop as is commonly uſed for ſelling goods of the ſame kind, *Dal.* 74.

Sale in fair or market doth not take away the owners property, the buyer knowing that it was anothers, *Dal.* 74.

Vide Horſes.

Marriage.

If any married perſon marrieth another, the former wife or husband being alive, except the husband or wife have been beyond the Seas

ſeven

ſeven years together, or have been abſent within the Kings dominions ſeven years together, the one not knowing the other to be alive, or was at ſuch marriage lawfully divorced, or the former marriage by ſentence eccleſiaſtical declared to be void, or was had within years of conſent, it is felony, 1 *Jac.* 11. *Lam.* 421. *Dal.* 289. *Cro.* 52. 2. without corruption of bloud, loſs of dower, or diſ-inheriting any heir.

All marriages made ſince 1642. before any Juſtice of the Peace confirmed and made good, and iſſues upon Baſtards, or otherwiſe touching the ſame to be tryed by Juries, 12 *Car.* 2. *ca.* 33.

Maſſe.

To ſing Maſs, forfeiteth 200 marks and a years impriſonment. To hear it, forfeiteth 100 marks, and like impriſonment, 23 *El.* c. 1. *Lam.* 413.

For the diſcovery of any who hath been at Maſs, *vide* Jeſuites.

Maſter, *vide* Servant and Labourers.

Meaſure, *vide* Weight.

Meſſages falſe.

Two Juſt. of P. one being of the *Quorum*, may (as it ſeemeth) binde over to the next Qu. Seſſions any ſuſpected of getting money or other thing by falſe tokens or counterfeited letters, or may impriſon ſuch, or bail them to the next Q. Seſſions, *Dal.* 47. 33 *H.* 8. c. 1. *Vide plus* Cozenage.

Milch-

Milch-kine, *vide* Calves.

Minſtrels, *vide* Rogues.

Miſpriſion.

Miſpriſion is properly, where one knoweth that another hath committed treaſon or felony, but was not conſenting thereto, and will not diſcover the offender to the King or his Councel, or to ſome magiſtrate, but conceals the offence, *Dal.* 234. *Stam.* 37. *T. of Law*, 181.

A Chaplain fixed an old ſeal to a new Patent of non-reſidency, it was holden miſpriſion of Treaſon, *Terms of Law*, *ibid. Dal.* 229.

Knowing money to be counterfeit, and bringing it out of Ireland into England, and uttering it in payment, is miſpriſion of treaſon, *Terms of Law*, *ibid. Cro.* 44. b. *Stamf.* 38. 3 H. 7. 10.

For miſpriſion of felony he ſhall onely be fined. *Dal.* 234. *Terms of Law*, *ibid. Cro.* 44. a.

Miſpriſion of Treaſon.

To draw a ſword, or ſtrike a Juſtice ſitting in place of Judgment, *Dal.* 231.

To ſtrike a Juror in preſence of the Juſtice ſitting in place of Judgment, *Dal. ibid.*

To ſtrike one in Weſtminſter-Hall, any of the Kings Courts ſitting, *Dal. ibid.*

In all which caſes the offender ſhall loſe his right hand, and ſhall have judgment as in miſpriſion of Treaſon, Dal. 234.

A ſtranger reſcuing one arreſted by a Juſtice upon an affray ſitting in place of Juſtice, whereby he eſcapeth, it is miſpriſion of Treaſon, *Dal.* 231.

For offenders in High Treaſon, miſpriſion of Treaſon, *Præmunire*, though a Juſtice of Peace cannot meddle in the very point of the offence, yet upon complaint to a Juſtice of Peace, or other knowledg, he ought to cauſe the party to be apprehended, and joyning with ſome other Juſtice of Peace, to take the offenders examination and information upon oath of ſuch as bring them, or other that can prove any thing material, and put it in writing under the hands of the informers, and commit the offenders to gaol, and bind over thoſe which prove any thing material to appear before the Lords of the Councel, or elſwhere to give evidence upon reaſonable warning, and to certify their doings to ſome of the Lords of the Councel, or elſwhere, *Dal.* 235.

Willingly to aid and maintain, or knowing ſuch as have abſolved, perſwaded, or withdrawn any within the Kings dominions from their obedience, or Religion now eſtabliſhed, to the Romiſh Religion, or moved them to yield obedience to any other eſtate, or practiſed to do any of them, and doth not within 20 dayes diſcloſe it to ſome Juſtice of the Peace, or higher officer, it is miſpriſion of treaſon. 23 *El. c.* 1. *Lam.* 412.

Within ſix weeks after any bull or other inſtrument of reconciliation hath been offered, not to reveal it to ſome of the Privy

Coun-

Councel, or Preſidents of the North, or Wales, is miſpriſion of treaſon, 23 *Eliz. cap.* 1. *Lam.* 413.

Miſpriſion of Felony.

He that ſeeth one killed by another, or robbed, or any other felony committed, and is not of their confederacy, and doth not make reſiſtance, or diſturb the felon, or levy Hue and Cry, but conceal the ſame, it is miſpriſion of felony, and fineable, 14 *H.* 7. *c.* 31. *Cro.* 44. *Dal.* 296.

A man foreknoweth of a felony to be done, and concealeth it, and it is effected; it is miſpriſion of felony, *Quære*, *Cro.* 41. b. *nu.* 5. *Dal.* 298.

"Every treaſon or felony doth include "miſpriſion, ſo that where any hath com- "mitted treaſon or felony, the King may "cauſe the offender to be indicted and ar- "raigned but of miſpriſion. *Cr.* 44 b. *Dal.* 234. *Stamf.* 37. d.

Mitigation of fines and forfeitures, *Vide* Lamb. 577.

Mittimus.

Mittimus muſt contain the names of the parties, their offences, and time of Impriſonment, that it may appear whether the priſoner be bailable or not, *Lam.* 297. *Cro.* 153. a. *nu.* 11. *Dal.* 315, 396.

If one be committed without bail or mainprize, and the cauſe is expreſſed in the *Mittimus*,

mus, and yet is bailable, other Justices of the Peace may bail him: yet *Quære*, seeing their authority is equal, *Dal.* 315.

The form of the *Mittimus*.

To send felons to the Gaol, *Lam.* 220. *Dal.* 394.

To send rioters to the Gaol, *Lam.* 321.

To send shooters in pieces, *Lam.* 297. *Dal.* 398.

To send upon forcible entry, &c. *Lam.* 150.

To send to the house of Correction. *Dal.* 396.

To send an Ale-seller without licence, *Dal.* 387.

To send a reputed father of a bastard, *Dal.* 392.

Monasteries, *vide* Religious Houses.

Mortuaries.

Spiritual person not to take Mortuaries or any thing for them, where they have not been used to be payed, or where the goods of the dead are under ten marks; taking above three shillings 4 d. where the goods are under 30 l. or above 6 s. 8 d. where they are above thirty pound and under forty pound, or above ten shillings, where they are above 40 l. he shall forfeit all taken above his due, and 40 shillings to the party grieved, 21 *H.* 8. *c.* 6. *Lam.* 435, 436.

Multi-

Multiplication of Gold and Silver.

To practice the art of multiplication of gold and silver, is felony, 5 *H.*4. *cap.*4. *Lam.* 227, 425.

Murder.

Murder is when one man upon malice pretended, prepensed, or precedent, doth kill another feloniously that liveth within the Realm, or under the protection of the King, whether it be openly or privately, and whether the party slain be English or alien, *Lam.*237. *Cro.*21.a.*nu.*1.*Dal.*241, 239.

The killing shall have relation to the death and not to the stroke, *Cook* 4. 42. *Cro.* 21.a. *nu.* 1.

Malice is { Expressed, or Implied, } *Cr.*21.a.*Da.*241. *Lam.* 239.

Malice expressed is when it is known that there is malice between them, *Cro.*21.a. and it apparent, and where there is a precedent falling out, or lying in wait, or time and place appointed, *Dal.* 241. *Lam* 238.

Malice implyed is when one is killed suddenly without defence, *Dalt.* 241. *Cro.*21.a. *nu.*2.

As where one killeth another without provocation, *Lam.*239.*Dal.*241.

One busied, as reading, going over a style, &c. killed, *Cro.*27.a.*nu.*20.*Dal.*241.

One stabbed, not having a weapon drawn, 1 *Jac.*c.8.

To

To kill an officer known, in executing proceſs, *Dal. ibid.*

To kill an unknown officer if he ſhew his warrant; and if an officer hath the Kings writ or lawful warrant, though it be erroneous and ſlain in executing it, it is murder. *La.* 240. *Dal.* 241.

To kill any magiſtrate or miniſter of Juſtice in executing his office, or in keeping the peace. *Dal.* 242. *Cro.* 25. b. *nu.* 51.

A Rioter killeth an Officer or an aſſiſtant comming to ſuppreſs a riot, it is murder in all the rioters. *C.* 0. 23. b. *nu.* 28. *Lam.* 241. *Dal.* 242.

A Conſtable parting an affray, or any of his company coming to aid him, although it was ſuddenly and in the night. *Cro.* 25. a. *nu.* 51. *Dal.* 241.

A thief killing a true man in reſiſting, it is murder of malice prepenſed, *Lam.* 241. *Dal.* 241. *Cro.* 22. a. *nu.* 13.

1. A man carried his ſick father into the froſt, whereby he dyed. *Lam.* 740. *Dal.* 242.

2. An harlot hid her child, and covered it with leaves, and a Kite ſtruck it and killed it. *Dal.* 242. *Lam.* 240.

3. The owner knoweth his beaſt to be accuſtomed to hurt, and doth not tye him up, and after the beaſt killeth a man. *Lam.* 239. *Dal.* 242.

In theſe three caſes, voluntas reputabitur pro facto, *for it ſheweth that they had a will to hurt, and the will doth amount to malice,* Dal. *ibid. and ſo to murder.*

One

One having malice against another, assaulteth that other, and after flyeth to the wall, and then killeth that other; it is murder, for "he slew him in the said malice wherein he "did assault him. *Lam.*239.

One condemned to dye is killed by a private person without warrant, or by the Officer contrary to the judgment; it is murder, *Lam.* 240.

Prisoner killed by his gaoler by over-hard keeping, it is murder. *Lam.*240.

One commandeth his servant to beat a man, who beateth him, so that he dyeth thereof; it is murder in the commander, *Dal.*245. murder in both, if it be in the commanders presence. *Lam.*241.

Many come to do an unlawful act, and one in doing thereof killeth a man; it is murder in all, although they did but look on. *Dal.* 245,253. *Cro.*22.a.*nu.*10.24 b. *nu.* 43. *Lam.* 241. *Stam.*40. If they be not present, yet if they be in the same house, or upon the same ground, it is murder in all. *Dal.*245, *Cro.*25.a. *nu.*5. *Lam.*241.

All present and aiding, abetting or comforting another to do murder, are principals. *Dal.*245. *Lam.*243. *Cro.*22.a.*nu.*15.

Two appoint the field and meet, and bring company with them, and one of them is slain; it is murder in all that came with the murderer. *Dal.*245.

Murder is intended to one, and he killeth another, it is murder. *Lam.*243. *Dal.*244.

A. woundeth *B.* in fight, and after they meet sud-

ſuddenly and fight; if B. kill A. it is murder, for it is intended malice upon the former hurt; but if A. kill B. it is but manſlaughter, for the hurt did appeaſe his former malice, *Lam.*251, 238. *Dal.*243.

Two in ſuit meet and quarrel, and the defendant killeth the Plaintiff; *quære* if it be murder, *Dal.*244.

Two fight upon malice, and one of them killeth one that came to part them; it is murder in both, *Dal.*244. *Lam.*242.

The owner rebuked one ſtealing his pears, who killed the owner; it was adjudged murder, *Dal.*245. *Lam.*241. *Cro.*24.a.*m.*34.

Poiſoning of another wilfully whereby he dyeth, is and was murder by the Common law, *Dal.*244.

The party poiſoned muſt dye within a year and a day after the receiving of the poiſon, *Dal.* 246.

After the beating or hurting another, to make murder, or other homicide, the year and the day is reckoned from the ſtroke given, *Dal.*246. *Cro.*23.b.*m.*54.

An appeal hath relation to the death, *ibid.*

A woman delivered of a baſtard, endeavouring privately either by drowning or by ſecret burying to conceal the death thereof, as that it may not come to light, whether it were born alive or dead, but be concealed, ſhall ſuffer death as in caſe of murder, except ſhe make proof by one witneſs that the child was born dead, 21 *Jac. cap.* 27.

Juſtices

Juſtices of Peace may take Endictments of murder as of murder, *Lam.*493.

"A man hath a horſe that will ſtrike ſuch "as come near him, his maſter knowing it, "rideth among people, the horſe killeth a "man, it is felony in the maſter, *Dal.* 242. *Lam.*239. *Cro.*24.b. *nu.*45.

"Indictment of murder muſt expreſly have "*murdravit*, for *ex malitia præcogitata*, & "*voluntate*, & *felonice interfecit*, is not ſuf- "ficient, *Cro.*101.a. *nu.*4.

Muſters.

Convicted before the Juſtices of Peace for offence againſt the Statute of muſters, ſhall be impriſoned 10 dayes without bail, unleſs he pay the forfeiture being 40 s. which is for abſence without reaſonable excuſe, or not ſhewing his beſt furniture being commanded, 4 & 5 *P.* & *M. c.* 3. *Lam.*349,482.

The party that ſueth upon the Statute of muſters, is to recover the forfeiture belonging unto him by action, or bill of debt, *ibid. Lam.* 583.

Name.

THE names and Sirnames of the party indicted muſt be certainly expreſſed; and if the indictment be of an acceſſary in felony, the name of the principal muſt be ſet down alſo, *Lam.*488. *Vide* Additions.

Nets,

Nets, *vide* Hunting, Partridges and Pheſants.

News.

Contriver, ſpeaker, or teller of falſe or counterfeit news, whereof diſcord, &c. may ariſe betwixt the King and his Nobles, or any other falſe news, lyes, or other falſe things of Prelates, Dukes, Earls, and Barons, &c. whereof diſcord and ſlander may ariſe within the realm, ſhall be impriſoned till he find out the author; and if he cannot find him, ſhall be puniſhed by the advice of the Councel. *Weſt.* 1. 3 *Ed.* 1. *c.* 33. 2 *R.* 2. *c.* 5. 12 *R.* 2. *c.* 11. 1 *&* 2 *P.& M. c* 3. *Dal.* 326.

Next Juſtice.

Where the Statute of 13 *H.* 4. *c.* 7. willeth the Juſtice of Peace moſt nigh in every County, where ſuch riot or rout ſhall be, to do execution of the Statute under pain of 100 l. if any other Juſtices that be not next unto the place, ſhall execute the Statute, it will excuſe the next, becauſe all have power alike, by the firſt part of the Stat. *Law.* 326, 327. *Dal.* 111. *P. R.* 30.

Night-walkers, *vide* Watches.

Noble Perſonages.

A Noblemans promiſe to keep the Peace, hath been held ſufficient. *Dal.* 165. *La.* 81, 82.

A Juſtice of Peace may not grant warrant of the Peace againſt a Lord of the Parliament, *Dal.* 165.

Not

Nor againſt a Dutcheſs, Counteſs, or Baroneſs; for they are Peers of the Realm, and ſhall be tryed by their Peers, and have the ſame priviledges that Dukes, Earls, and Barons have. *Dal.* 166.

Dutcheſs, Counteſs, or any Noble by birth, marrieth with a Gentleman, ſhe loſeth not her name of dignity: but if ſhe be made noble "only by marriage, and her husband dying, "marry a Gentleman, ſhe loſeth her dignity. *Cro.* 110. a. *Dal.* 166. *Vide* Clergy, that a Nobleman may have his Clergy for any felony, except wilful murder and poiſoning.

"None are noble under the degree of a "Baron. *Lam.* 539.

Non ſanæ memoriæ.

There be three ſorts of perſons *Non ſanæ memoriæ*, or *non compotes mentis*. Dal. 248.

1. A natural fool, who is ſo from his birth.

2. He that was once of ſound memory, and after by ſickneſs, hurt, or other accident or viſitation of God, loſeth it.

3. A lunatick, *qui gaudet lucidis intervallis*, and ſometimes is of good underſtanding, and ſometimes is not *compos mentis*.

Nuſance.

Every man may in a peaceable manner aſſemble a meet company to do any lawful thing, or to remove or caſt down any common Nuſance. *Dal.* 224. *Cro.* 66. a. *nu.* 64.

"One is indicted of Nuſance, and acknow-"ledgeth it, infinite diſtreſs ſhall go to the "Sheriff

" Sheriff to remove it, and he ſhall not be re-
" ceived to his fine till the Sheriff return that
" it is removed, *Cro.* 186.

Obedience to the King.

IF any practice to abſolve, perſwade or withdraw any from their natural obedience to the King, or (for that intent) from the religion now eſtabliſhed here, to the Romiſh religion, or to move them to promiſe obedience to the See of *Rome*, or other eſtate, or if any have been willingly ſo abſolved, or have promiſed ſuch obedience, it is treaſon. 23 *El. c.* 1. *Lam.* 412. *Cro.* 18. a.

Colore Officii.

When officers take any thing *Colore officii*, it is taken *in malam partem*, and is extortion, and the office is but a veil to cover the fault: but when it is *ratione* or *virtute officii*, then it is *in bonam partem*, *Cro.* 57. b. *pl.* 2.

Ordinary.

His Fees, *vide* Fees.

The Ordinary oweth not his attendance at the Seſſions of the Peace, as he doth at the gaol delivery, *Lam.* 395, 396.

" The Court may allow Clergy in Antient-
" neſs of Law, though the Ordinary or his
" deputy be not there, *Cro.* 118. b. *pl.* 44.
Stamf. 133. a.

" A

"A felon adjudged to be hanged, in failing "to read, may in favour of life have the bene- "fit of Clergy at the gallows. By which it "appeareth, that the Ordinaries presence is "not of necessity. But this is intended where "the felon is adjudged in the Kings Bench, "not at the Assizes, for their Commission "endeth with their Sessions: but before Just. "of P. it seemeth he may have his Clergy at "the Gallows, for their Commission conti- "nueth, and may allow Clergy without an "Ordinary, *Cro.* 119. a. *nu.* 54, 56. *Stam.* 132. "b. yea one reprieved may pray his Clergy at "the next Assizes, *Cro. ibid. nu.* 56. The Judges "are Judges of the Clerks reading, and not "the Ordinary. For if the Ordinary say that "he readeth, and cannot, he shall be hanged, "and the Ordinary fined, *Cro.* 119. a. *nu.* 49. "*Vide plus* Clergy. Extortion.

Oath.

You shall swear, that the surety of the Peace which you require against *A. B.* is not of any malicious intent, for vexation, but for very fear, and for the needful preservation of your body and goods in safety; so help you God, *Lam.* 83.

Oath of the Justices of Peace, *vide Dal.* 13.

Oath of Supremacy, *Dal.* 14.

"Oath of Constables and Churchwardens "is to be enlarged, *vide* Tiplers.

Oath of Allegeance, *Dal.* 15. 3 *Jac. cap.* 4. *Jac. c.* 6.

The *Custos Rotulorum*, or any two Justices

of the Peace, one being of the Quorum, may take the oaths of Under-Sheriffs of their County, their Bailiffs, Deputies, Clarks, or under-officers, before they ſhall exerciſe their ſaid offices, *Dal.* 138. See 25 *El. c.* 12. the form of the Oath.

Quære if Juſtices of the Peace may examine upon oath ſureties of their ſufficiency, *Dal.* 171. Juſtices of Peace in their Seſſions may do it, *Cro.* 194. a. *Br.* impriſonment 18.

Default of Under-Sheriffs, their Clarks, Bailiffs, &c. in not taking their oaths for execution of their office, is to be heard and determined at the Quarter-Seſſions, 27 *Eliz. c.* 12. *Iam.* 615.

Under Sherriffs, Bailiffs, &c. doing any thing contrary to their oaths, loſe to the party grieved treble damages, 27 *Eliz. c.* 12. *Lan.* 433.

Where the refuſer of the oath of Allegeance ſhall incur a *Præmunire*, *vide Præmunire.*

Refuſer of the oath of Allegeance is diſabled to execute any place of judicature or office, being no office of inheritance or miniſterial function, or practice of the Law Civil or Common, or the ſcience of Phyſick, Chirurgery, or the art of an Apothecary, or any liberal ſcience, 7 *Jac. c.* 6.

One Juſtice of Peace to whom complaint is made, may commit to the Gaol without bail till the next Aſſizes, Gaol-delivery, or Qu. Seſſions, any above the age of 18 years (under a Baron or Baroneſs) which ſtand preſented, indicted, or convicted for not coming

to

to Church, or not receiving the Communion, or which by the Miniſter, petty-Conſtable and Churchwarden, or any two of them, ſhall be complained of to any Juſtice of the Peace, and by him ſuſpected, may "by ſuch Juſtice be "required to take the oath of allegeance, and "may be committed without bail till the "next Aſſizes, for refuſing the oath of al-"legeance, 7 *Jac.c.6. Lam.*199 *Dal.*82,107.

Two Juſtices of the Peace, one being of the Quorum, may require any perſon of the age of 18 or above, under the degree of a Baron or Baroneſs, to take the oath of allegeance, and on refuſal to commit him to the Gaol without bail till the next Aſſizes or Q. Seſſions, 7 *Jac.c.6. Lam.* 363.

Where the examination of a Juſtice of P. is the conviction of the party, there it ought to be upon oath: but where it is but to inform the Jury upon the indictment, it needeth not, *Lam.*536. *Dal.*159. Though the ſtatute doth not expreſly ſay it ſhall be upon oath, *Dal. ibid.*

In caſes of felony, it ſeemeth convenient that the information be upon oath, otherwiſe the examination ſhall not be given in evidence. For,

If the examinate die before the trial, the examination may be evidence; without oath many will ſpeak coldly. It is the practice of the Courts in Weſtminſter, *Dal.*307. & 308. *Cra.*194.a.*nu.*5. *Lam.*213,214,215. *Br.* Examination 32.

The refuſing the oath of allegeance requi-

red by two Juſtices of the Peace, and the taking of the ſame and oath of ſupremacy by a conformed Recuſant returning into *England*, are to be certified at the next Qu. Seſſions, 7 *Jac.c.6. Iam.*362,363,616.

The oath of allegeance being required at the Q. Seſſions of ſuch as formerly refuſed the ſame, and being there tendred and refuſed, the refuſers (other then Noblemen and women) incur *Præmunire*, except women covert, who are to be ſent to the gaol without bail, *Ia.ib.*

No perſon may maintain that the taking of an Oath in any caſe whatſoever (though before a lawful Magiſtrate) is unlawful and contrary to the word of God, nor may wilfully refuſe to take an oath by the Laws of the Land, being duly tendred, nor may perſwade any other to forbear the taking of the ſame ſo tendred, nor go about by printing, writing, or otherwiſe to maintain that the taking of an Oath in any caſe whatſoever is unlawful, upon the penalty of 5 l. for the firſt offence, as ſo is in caſe of *Quakers*, for which ſee the ſtat. 13 & 14 *Car.*2. *ca.* 1. and title *Quakers*.

Orchards and Gardens, *vide* Hedge-breakers.

Overſeers of the Poor.

"Overſeers for the poor for every Pariſh are "to be nominated yearly in Eaſter week, or "within a month after, by two Juſt. of P. one "being of the *Quorum*, under their hands "and ſeals, dwelling in or near the Pariſh, "43 *El.c.*2. *Lam.*360. *Dal.*91. "O-

"Overſeers and Churchwardens with two "ſuch Juſtices, may ſet to work children of "ſuch as are not able to keep them, and all "married and unmarried which have not "means to maintain them; and may raiſe a "weekly ſtock or otherwiſe by taxation of "every inhabitant, and diſpoſe thereof, *ibid.*

"Overſeers and Churchwardens (not let-"ted by ſickneſs or other juſt excuſe allow-"ed by two ſuch Juſtices) ſhall meet month-"ly in the Church upon Sunday after Eve-"ning Prayer, to conſult about ordering of "the poor, or forfeit 20 s. a piece, 43 *El. c.* 2.

"Any finding himſelf grieved with the "taxation made by the Overſeers, &c. or by "the Juſtices, may have remedy at the Qu. "Seſſions, 43 *El. cap.* 2.

"In diſability of the pariſh, the two Juſt. "may tax any other pariſh within the Hun-"dred. If the Hundred be not ſufficient the "greater part of the Juſtices of Peace in "other Seſſions may rate other pariſhes, "43 *Eliz. cap.* 2.

"Overſeers and Churchwardens either "preſent or ſubſequent, may by warrant of "two ſuch Juſtices levy all ſums and arrear-"ages of any refuſer by diſtreſs and ſale of "his goods. In default of diſtreſs, two ſuch "Juſt. may commit him without bail till "paiment made, 43 *El. c.* 2.

"Overſeers may be committed till they "do account, 43 *El. c.* 2.

All to whom the overſeers by 43 *El* 2. may bind apprentices, may take and keep them as

apprentices, and the overſeers may with the aſſent of two Juſtices of Peace, one being of the *Quorum*, in their reſpective limits where there be more than one, or by aſſent of one Juſtice of Peace where there be no more, ſet up, uſe, and occupy any trade, myſtery, or occupation, only for ſetting poor of the parish on work, wherein they are overſeers, 3 *Car.* c. 4. *Vide* Poor.

Pannel, *vide* Jurors.

Pardon.

AT the Common Law before the ſtatute of 13 *R.* 2. *ſtat.* 2. *c.* 1. a pardon of all felonies was good for murders, and ſo for petty treaſons, *Law.* 561.

Pardon of all felonies is not good for murder or petty treaſon, except the pardon be with a *non obſtante*, or that murder be therein expreſly mentioned, *Dal.* 246. *Cro.* 21. b. *nu.* 7.

But it is good for acceſſaries, both before and after.

A pardon of all felonies will not diſcharge a man that is attainted of felony, except the execution and attainder be pardoned, *Cro.* 115. a. *nu.* 1. *Lam.* 562. *D.* 245.

Breaker of the peace after the pardon, forfeiteth the pardon, and may be hanged notwithſtanding his pardon, *Cro.* 113. b. *nu.* 16. *Dal.* 247.

The

The King only can pardon treaſon, murder, or other felony, or any acceſſary thereunto, *Dal.* 247.

General pardon is, that which is given by act of Parliament to all men, of which the Court ought of duty to give allowance, though the party will not plead it, nor accept the benefit thereof, *Lamb.*559, 560. *Cro.*115. *b. nu.* 13.

Pardon of abjuration is not good, without ſpecial words of abjuration, *Lam* 562.

Quære if a general pardon for pety treaſon avail him that is indicted of murder, without the word *proditorie*, *Lam.*560.

A general pardon (coming betwixt the ſtroke and the death) of all miſdemeanours, will avail for the death, *Lam.* 560.

Quere if a pardon of all offences (except perſons outlawed of murder) will avail one that hath committed manſlaughter, and yet indicted and outlawed of murder, and after the pardon reverſeth the outlawry, *Lam.*560. *Cro.*116. *b. nu.*17.

Pardon of attainder and execution for felony, is not good for felony, without words to "pardon the felony it ſelf, *Lam.*562.

Pardon of a Gaoler for eſcapes of felony and traitors, is not good for voluntary eſcapes, *Lam.* 562.

Pardon of two for all felonies done by them, or either of them, will not ſerve for offences done by one of them alone, *Lam.*562.

Pardon muſt agree with the indictment in name and addition of the party, and nature

of the offence; for a pardon of all felonies is not good for petty treason, murder, nor for one attainted of felony, *Lam.*561.

A special pardon ought to be pleaded under the great Seal, and a writ of allowance brought with it, testifying he hath found surety for the good behaviour, unless there be a dispensation by *non obstante*, *Lam.*561.

Prisoner pleadeth a pardon, the J. of P. in absence of the Kings attorney, may join issue that he is one of the persons excepted, *Lam.* 540. *Stam.*103.

He that killeth another *se defendendo*, needs not sue to the King for a pardon, *Stam.* 15.b. *Lam.*253.

He that killeth one by misadventure, shall have a pardon of course without suit, *Stam.* 16. *Stat.* of *Glou.c.* 9. in both cases the goods are forfeited.

The manner of suing a pardon of course is, If they desire to purchase their pardon, they must upon their trial plead not guilty, and then the special matter being found by verdict, they shall be bailed; then they must sue forth a *Certiorari* to certifie the record to the Lord Chancellor, who shall make them a pardon of course under the great seal without suing to the King, *Stam.*15. *Dal.*250.

Park and Parker.

Hunters or killers of any Deer or Conies in the night or day-time in any park or warren, or in any other inclosed grounds, and being thereof lawfully convicted, every such offender shall

shall suffer three months imprisonment, and find sufficient surety for the good behaviour for the space of seven years, or continue in prison till he find such Sureties for the space of seven years, and pay treble damages, or (if "it be for deer) 10 l. to the party grieved, at "his election, 5 *El. c.* 21. 7 *Jac. c.* 13. *Da.* 326. See Hunting.

Parson and Vicar, *vide* Ecclesiastical causes.

Partridges and Phesants.

Every Justice of Peace may examine offences against the Statute of 23 *Eliz. cap.* 10. for taking of partridges and phesants in the "night, and binde the offenders by recogni- "zance, with good surety to appear at the "next Q. Sessions, &c. And after conviction "and punishment take bond with sureties, "that for two years after they shall not of- "fend against the said Statute, *Dal.* 87. *Law.* "200. 23 *El. cap.* 10.

By 1 *Jac. cap.* 27. 1. He that shall shoot at, kill, or destroy with any Gun, Cross-bow, stone-bow, or long-bow, any partridge, phesant, house-dove, pigeon, heron, mallard, duck, teal, wigeon, growse, heath-cock, moregame, or any such fowl, or hare, 2. Or "shall take, kill or destroy any partridge, phesant, house-dove or pigeon with setting-dogges and nets, or with any manner of nets, snares, engines or instruments. 3. Or

ſhall take or willingly deſtroy the eggs of any Pheſant, Partridge, or Swan. 4. Or ſhall trace or courſe any hare in the ſnow, or ſhall take or deſtroy any hare with cords or ſuch inſtruments. 5. Or ſhall keep any greyhound for deer or hare, or ſetting-dogges, or nets to take Pheſants or Partridges, not having lands of inheritance of 10 pound or 30 pound *per annum* for life, or in goods 200 pound, or be the ſon of a Knight, or ſon and heir apparent of an Eſquire: any of the ſaid offences being proved by the parties confeſſion, or oath of two witneſſes before any two Juſtices of Peace of the County where the offence ſhall be committed, or the party apprehended, ſhall be impriſonment for three moneths without bail, unleſs he forthwith upon his conviction pay to the uſe of the poor there 20 ſhill. for every hare, fowl, and egge, and 40 ſhill. for having every ſuch greyhound, ſetting-dog, or nets, or after three months impriſonment be bound with two ſureties not to offend in any the ſaid particulars; which recognizances taken by two Juſtices of the Peace, muſt be returned at the Quarter Seſſions, 1 *Jac. c.*27. *Dal.* 89. *Lam.* 335.

By 7 *Jac. c.*11. proof of one witneſs is ſufficient for the taking of Partridges and Pheſants with ſetting-dogs and nets, or other nets, ſnares or engines, &c. the puniſhment as 1 *Jac.*27. *Lam.*334.

Killer of partridges or pheſants with hawks or dogs, by colour of hawking, between the

the firſt of *July* and the laſt of *Auguſt*, upon conviction within ſix months after the offence by the confeſſion of the party, or oath of two witneſſes before two Juſtices of Peace, is to be impriſoned one month without bail; unleſs he pay preſently to the Churchwardens and overſeers of the poor where he offended, or was taken, 40 ſhil. for hawking, and twenty ſhill. for every Partridge or Pheſant taken, 7 *Jac. cap.* 11. *Lamb.* 335. *Dal.* 88.

Taking of Pheſants or Partridges upon another mans ground by nets or otherwiſe, except unwillingly by low-bell or trammel, and there to let them go again, loſeth 20 ſhil. a Pheſant, and 10 ſhill. a Partridge, 11 *H.*7. *c.*17. & 23 *El. c.*10. *Lam.*447.

Hawking in corn before it be cropped, without conſent of the owner, loſeth 40 ſhill. *ibid.*

Taker, killer, or deſtroyer, by guns, bows, ſetting-dogs, nets, or other engins, of any Partridge or Pheſant, except the owner of a Warren, Lord of a Mannor, or having lands of inheritance in his own or his wives right of the clear yearly value of forty pound, or for life of eighty pound, or goods worth 400 pound, and their houſhold-ſervants authorized by them within their own grounds in the day-time onely betwixt *Michaelmas* and *Chriſtmas*, upon conviction within ſix weeks after the offence committed, by confeſſion or oath of two witneſſes before two Juſtices of Peace next the place of offence or apprehenſion

ſion, to be impriſoned three months without bail, unleſs he pay immediately unto the Churchwardens and Overſeers of the poor of one of the ſaid places, 20 ſhillings, and be bound to the King by recognizance in twenty pound never to offend again: the ſame to be certified at the next General Qu. Seſſions, 7 *Jac.c.*11.

Buyer or ſeller of hare, deer, partridge, or pheſant (except partridges or pheſants bred up or brought up from beyond the Seas) loſeth for every deer 40 ſhill. pheſant 20 ſhil. hare or partridge 10 ſhill. one moiety to the informer, the other to the poor of the parish, 1 *Jac.c.*27.

Conſtable by warrant from two Juſtices of the Peace may ſearch the houſes of any not allowed, ſuſpected to have any ſetting-dogs or nets for partridges, and finding them, may take, carry away, detain, kill, or cut in pieces any of them, 7 *Jac.c.*11.

Offences againſt the ſtatute of 1 *Jac.c.*27. puniſhed by it, are not to be puniſhed by any former, and are to be heard and determined by Judges of Aſſize in their Circuit, Juſt. of P. at Qu. Seſſions, or two Juſtices of the Peace out of the Seſſions, 1 *Jac.*27.

"Who may take partridges and pheſants "in their own ground, and when, *Vide* 7 *Jac.* "*cap.*11.

Peace.

Every private perſon that ſhall be preſent at any affray, aſſault or battery, ought to part them.

them that fight; and if he take hurt, he ſhall have his action: but if they reſiſt him, he may not hurt them. *Lam.* 131. *Dal.* 33.

Every man may ſtay the affrayers, till their heat be cooled, and then they may deliver them to the Conſtable to impriſon them till they find ſureties of the Peace; but they may not impriſon them unleſs the one of them be in peril of death by ſome hurt, for then any man may carry the other to the gaol till it be known whether the other will live or dye. *La.* 131. *Dal.* 33. *Br. Cor.* 225.

He which hath mortally hurt another, flyeth into anothers houſe, any man that purſueth him with Hue and Cry, may break open the houſe, enter, and take him, *Dalt.* ſaith the Conſtable may. *Lam.* 131, 132. *Dal.* 34.

"If an affray, forcible entry, or any "thing in diſturbance of the peace be done "in the preſence of a Juſtice of Peace, he "may record it, and certify the ſame, and "commit the parties preſently, *Dal.* 89. *Vide* Affray.

"If the Juſtice of Peace certify into the "Kings Bench that J. S. hath broken the "Peace, upon that Certificate J. S. ſhall be "there fined, without allowing him any tra-"verſe. *Dal.* 89.

Peers, *vide* Noble perſonages.

Pedlers, *vide* Rogues.

Per-

Perjury.

Procuring any unlawfully to commit wilful perjury in any case depending in a Court of Record, Leet, Court-Baron, Hundred-Court, or Ancient Demesne, or hath corruptly suborned any witness sworn to testify *in perpetuam rei memoriam*, or if any have upon such procurement, or by his own act wilfully committed such perjury, the procurer shall forfeit 40 l. and if not worth so much, half a years imprisonment without bail, stand upon the pillory for one hour, and be disabled for a witness for ever after. 5 *El. c.* 9. & 14 *El. cap.* 11.

The perjured 20 l. and six months imprisonment, and ever disabled for a witness; and if not worth 20 l. to have his ears nailed to the Pillory. 5 *Eliz. cap.* 9. & 14 *El. c.* 11. & 1 *Jac. c.* 25. *Lam.* 416. *Cro.* 18. a. b. This offence to be heard and determined in the Q. Sessions. *Lam.* 609.

Execution of the forfeiture upon the Statute of Perjury, to be awarded by the Justice of the Peace before whom the conviction was. *Lam.* 585.

Committing of perjury upon answer to a bill of complaint is not within the Statute of 5 *Eliz.* but for a false deposition upon examination upon interrogatories, *Crom.* 18. b, *n.* 3.

If any give false evidence upon a bill of endictment at the Sessions, it is held he shall not be punished by the statute of 5 *El.* for that the

the King is not named in the ſaid ſtatute. *Cro.* 18. b. *nu.* 5.

"If an officer take other fees then are al-
"lowed and incident to his office, he com-
"mitteth perjury. *Cro.* 57. b *nu.* 7.

"A man is attainted of perjury, the King
"pardons and reſtores him. *Quære* if his te-
"ſtimony ſhall be allowed againſt a priſoner,
"for *Once forſworn, ever forlorn. Cro.* 100. b. *Dal.* 305.

Petty-Treaſon.

The wilful killing or joyning in killing of the husband by the wife, the maſter or miſtreſs by the ſervant, the Ordinary by his Clerk, is petty treaſon. 25 *E.* 3. *c.* 2. *Lam.* 245, 246. *Dal.* 236. *Cro.* 19. b. *nu.* 1.

The child malitiouſly killeth the father or mother, it is petty-treaſon, though the father or mother at the ſame time give neither meat, drink, nor wages to the ſaid child; but it is petty treaſon in the ſaid child in reſpect of the duty of nature violated. *Dal.* 233. *Cro.* 19. b. But *Lam.* ſaith it is not treaſon in the child, if the father give it not meat nor drink, as to a ſervant, *Lam.* 245. and do their buſineſs, for it is as a ſervant, 21 *E.* 3. 17. meer forme ſtre by *Lamberts* opinion.

The ſon or daughter in law kill the father or mother in law with whom they dwell, and do ſervice, and have meat and drink; it is petty treaſon, though ſuch child take no wages; but the Indictment ſhall be by the name of ſervant. *Dal.* 237.

Judg-

Judgment in petty-treason is, a man is to be drawn and hanged; if a woman, both in high-treason and petty-treason, to be drawn and burned. *Lam.*570.*Dal.*237.

The forfeiture for petty-treason is, the King shall have all his goods, and for his lands *Annum, diem, & vastum*, and the escheat thereof shall be to every lord of his proper fee, *Dal.*238.

No clergy is allowed in case of petty-treason. *Dal.* 237.

Pewter, *vide* Brass.

Physitian.

One neither Physitian nor Chyrurgion taketh upon him to cure a sick or wounded man, who dyeth under his hand, it was felony until 34 *H.*8. *c.*8. *Lam.*240. *Dal.*243.

But if a smith or other having skill only in curing and dressing diseases of horses, or other cattel, shall take upon him cutting, or letting bloud, or such like cure of a man, who dieth thereof, it seemeth to be felony. *Dal.*243.

Pictures brought from Rome, *Vide Agnus Dei.*

Playes and Players, *vide* Unlawfull Games, *Vide* Rogues.

Plague.

Head-officers and Justices of Peace in a Corporation, or in a priviledged place, or two of them, may set a weekly tax on the inhabitants of the Corporation, or priviledged place, or liberties thereof, for the reasonable relief of persons infected, or dwelling in houses

houſes infected within the ſaid Corporation or priviledged place. 1 *Jac. c.* 31. *Lamb* 537.

Corporation or priviledged place not being able to relieve the perſons infected therein, upon certificate of the head-officer or Juſtices of Peace, or two of them to the two next Juſtices of the Peace, the ſaid two Juſtices may aſſeſs and tax the inhabitants of the county within five miles of the corporation at a weekly tax for the relief of them. 1 *Jac. cap.* 31. *Lam.* 337.

There being no Juſtice of Peace in the Corporation, or the infection being in a hamlet, the two next Juſtices of the county may aſſeſs the inhabitants of the county within five miles of the place infected, for the reaſonable relief thereof. 1 *Jac. c.* 31. *La.* 338.

The taxes, upon refuſal, to be raiſed by warrant of the head-officers, or Juſtices upon the goods of the refuſer, or upon default of goods returned, the party by another warrant to be impriſoned, till he make payment thereof with the arrerages. 1 *Jac. c.* 31.

Taxes made for the relief of places infected, are to be certified at the next Quarter-Seſſions, and there to be continued, enlarged, or extended to other parts of the County, or determined by the greater part of the Juſtices. 1 *Jac. c.* 31. *Iam.* 609.

Taxes levied of the County for the relief of an infected Corporation, are to be diſpoſed by the head-officer and Juſtices of the Corporation, or two of them; and if there be no Juſtice, then by the Juſtices aſſeſſors. 1 *Jac. cap.* 31.

Officers

Officers negligent in levying of the taxes, lose ten shillings to be employed as the taxes. 1 *Jac.c.*31.

Watchmen not to be impeached for hurting those infectious persons that being commanded to keep in, will in offering to come forth, resist the watchmen. 1 *Jac.c* 31.

Any infectious person commanded to keep in, goeth abroad and keepeth company, having an infectious sore uncured, it is felony without corruption of bloud or forfeiture of goods; if without sore, to be punished as a vagabond by 39 *El.* and bound to his good behaviour for a year. 1 *Jac.c.*31.

Officers of a Corporation and Justices of the Peace in the County, may respectively appoint, swear, and direct searchers, watchers, and buriers of infected persons and places. 1 *Jac. c.* 31. *Lam.* 197.

"One Justice of Peace may command per-"sons dwelling in infected houses to keep in: "and, if they go abroad, violently enforce "them. 1 *Jac.c.*31. *Lam.*197. *Cro*, 122.b. *m.* 39. *Dal.*90.

Plaints in Court.

One Justice of Peace may upon complaint examine the Sheriff or Under-Sheriff and Plaintiff concerning the taking and entring of plaints in their County-Court, and books against the Statute, or any Bailiff of the Hundred for not warning the defendant in such a plaint according to his precept from the Sheriff or Under-sheriff; and if he thereby find them

them faulty, that ſhall ſtand for a ſufficient conviction and attainder without further enquiry or examination; and theſe examinations the Juſtice muſt certify into the Exchequer within a quarter of a year, on pain of forfeiture of 40 s. for every default. 11 *H.* 7. 15. *Lam.* 202. *Dal.* 137.

Sheriff entring plaints in any mans name that is not preſent in Court, nor hath any ſufficient Attorney or Deputy, loſeth 40 s. *Lam.* 431.

So if he enter more plaints then the Plaintiff ſuppoſeth he hath cauſe of action for, 11 *H.* 7. *c.* 15. *Lam.* 431.

Pond and Pond-heads, *vid.* Fiſh.

Poiſoning, *vide* Murder.

Pope.

To extol the power of the Pope by writing, cyphering, printing, preaching, or any ſpeech, open deed or act adviſedly holden or ſtood with, to extol or defend the power of the Biſhop of Rome or of his See heretofore claimed and uſurped within this Realm, or to abet, procure, counſel, aid, or comfort ſuch, is treaſon, for the ſecond offence; for the firſt offence, *Præmunire. Dal* 231. *Lam.* 411. 5 *El. c.* 1.

Preſentment at the Quarter-Seſſions for extolling the power of the Pope of Rome, muſt be certified by the Juſtices of Peace before whom it was taken into the Kings Bench, within 40 dayes after, if the term open; if not,

not, then the firſt day of the next Term, of every Juſtice to loſe 100 l. 5 *El.c.*1.

Popiſh books.

Printer, buyer, ſeller, or bringer from beyond the ſea of any Popiſh primer, Lady-pſalters, &c. in any language, or other ſuperſtitious books in Engliſh, loſeth 40 s. a book, whereof one part to the King, another to the Informer, a third to the poor of the Pariſh where the book ſhall be found. 3 *Jac.c.*5.

Two Juſtices of Peace may ſearch the houſe or lodging of a Popiſh Recuſant, or whoſe wife is ſuch, for popiſh books and Reliques, and finding any unmeet for them to uſe, muſt deface and burn them, or being of value, deface them and reſtore them to the owner. 3 *Jac. cap.*5.

Poor people.

Traveller with wife and children not being a rogue, dyeth or runneth away, the Town where that happeneth is not bound to keep them, where they dye, nor ſend them away, but onely in charity, except they become wandring rogues. *Lam* 208. *Reſ.*7.

Parents able to work, are to find their children by their labour, and not the Pariſh. *Reſ.*8.

None is to be removed out of the Town where he dwelleth, or ſent to the place of their birth or laſt habitation, but a vagrant, not found by the town except he be impotent. *Reſ.* 9.

Perſons

Persons destitute of houses by expiration of term, or servants out of service, must provide houses for themselves and services. *Resol.* 9. *Dal.* 99.

Able bodies, yet idle, refusing to work, and no wanderers, are not to be sent to the place of birth or last habitation, but to the house of Correction, *Res.* 10. by such a Justice of Peace as may appoint overseers for the poor. 43 *El. c.* 2. *Lam* 209. & 295. *Dal.* 99.

Able bodies, yet idle and refusing to work, having any lawful means to live by, are not to be sent to the house of correction. *Res.* 10. *Lam. ibid. Dal.* 97.

It is fineable to remove or put any out of the parish, who are not to be put out, and such may be sent back. *Res.* 11. *Dal.* 98.

None may take relief at any mans door in the parish, but by the appointment of the overseers, nor beg in the high-wayes in their parish. *Res.* 15.

Parsons, vicars, farmers, or owners of Impropriations, cole-mines, or saleable woods, are to be charged with the relief of the poor. *Res.* 18, 19.

Bishop and his Chancellor and three Justices of the Peace, have power to examine how money for relief of the poor appointed by the statute is bestowed, and to call to account the detainers thereof. 14 *El. c.* 5. & 39 *El. c.* 18. *Lam.* 366.

Justice of Peace proved before the Judges of Assize by two Witnesses to be in default about the execution of the statute for the poor,

poor, loseth five pound. 14 *Eliz. cap.* 5. *Lam.* 372.

Parents at the Quarter-Sessions appointed to keep their children, or children their parents, and have not relieved them at their own charges, lose 20 s. a month. *Lam.* 445. 39 *El. cap.* 3, 4.

In disability of the Parish or hundred to relieve the poor, the greater part of the Justices at the Quarter Sessions may rate any other Parish or Hundred thereto. 39 *El. c.* 3. & 43 *El. c.* 2. *Lam.* 611.

Beggers children at the Q. Sessions may be bound to serve any subject in an honest calling. 14 *El. c.* 5. & 18 *El. c.* 3 *Lam.* 614.

Performance, or not performance of so much of the statute of 14 *El. c.* 5. for the poor as is not altered by 39 *El. c.* 3. or 43 *El. c.* 2. 1 *Jac. c.* 25. is to be yearly examined at Easter Sessions. *Lam.* 620.

Overplus of the stock for maimed souldiers is to be imployed by the greater part of the Justices at the Q. Sessions to such charitable uses as are set down in the statute for the poor, except by them it be reserved for future pensions. 43 *El. c.* 3.

Young children, the parents being dead, are to be set on work and relieved by the Town where they dwelled at the death of their parents, and not sent to the place of their birth. *Dal.* 96.

The Justices may compel such as be of ability, to take poor children apprentices, and may bind such masters refusing, over to the next gaol-

gaol-delivery; so said Sir *Henry Mountague* at Cambridg Assizes 1618. and the statute of 43 *El. c.* 2. seemeth to warrant as much, the words whereof are to this effect:

It shall be lawful for the Churchwardens and Overseers, or the greater part of them, by the assent of two Justices of the Peace, to bind a y such children to be apprentices where they shall see convenient cause, Dal. 93. *or the Churchwardens or Overseers, with the assent of two such Justices, may impose a competent sum of money upon such refuser for putting out such an apprentice, and upon refusal to levy it upon the Justice of Peace his warrant by distress and sale of the offenders goods.* Dal. 93.

If the Parents without good cause shewed, refuse to suffer their children to be apprentices, the Justices may bind them over to answer their contempt; if the child refuse, send him to the house of Correction, *quousque*, &c. *Dal.* 93.

A master putteth his apprentice into apparel, he cannot take it away though he part with the apprentice. *Dal.* 96.

Two Justices of Peace, one being of the Quorum, may send to the house of correction or gaol such as imploy not themselves in work being appointed. 43 *El. c.* 2.

Upon complaint made by the Churchwardens or Overseers of the poor of any Parish, to any Justice of Peace within 40 dayes, of any poor persons coming to settle in any tenement under the yearly value of 10 l. any two Justices, whereof one to be of the

Quorum,

Quorum, may remove such persons to such Parish where they were last setled, either a native, housholder, sojourner, apprentice, or servant, for the space of 40 dayes, unless such poor person give security to discharge the Parish, to be allowed by the said Justices; Provided, persons grieved may appeal to the next Quarter-Sessions.

And all persons may go from place to place to work in harvest, carrying with them Certificates from the Minister, one Churchwarden and one Overseer of the poor of the place where they inhabite; And such working, or falling sick, shall not be esteemed a Settlement: And such persons as refuse to go, or shall not remain in the Parish where they ought to be setled; any two Justices of Peace where the offence is committed, may send them to the House of Correction as Vagabonds, or to the publick Workhouse there to labour.

And several Corporations are in *London*, *Middlesex*, and *Westminster* for ordering matters touching the Poor; And the Justices of the Peace of *Middlesex* and *Surrey* respectively in their Quarter Sessions may chuse a President, Treasurer, and Assistants, for their several Corporations and Workhouses, and the Officers thereof to give account in writing at every Quarter-Sessions. 14 *Car.* 2. *cap.* 12.

Cases

Cases concerning provision for poor people.

Reves Case, *Mich. 7 Car. R.* B.R. Stat. 43 *Eliz.* (a). 2.

Poor.

Reve was brought to the Barre by *Hab. Corp.* being committed upon the Stat. of 43 *Eliz. cap.* 2. for that he being the reputed father of one *Ben. Gregory* a poor child, who was maintained by the Parish of S. *Giles* in the Fields, and he being a man of ability refused to maintain the child, or to find sureties for his appearance at next Sessions. *Reve* moved that the commitment was illegal, being grounded upon the said Stat. wherein is this clause, *That the Father and Grandfather, Mother and Grandmother, the Children and Grandchildren of every poor person not able to work (they being of ability) shall pay such rates, and in such wise as the Justices of that County where such poor dwels, at their next Quarter-Sessions shall assess, upon pain of forfeiting* 20 *s.* per mens. Wherein there is no such person taken notice of, as the reputed father of a bastard, which is *filius populi*.

It also appeareth, that *Reve* dwelt in *Suffolk*, and coming to *London* about Law-suits was taken by a warrant of a Justice of Peace of *Middlesex*.

Resol. The granting the warrant was ille-

gal, and all the proceedings in *Mid. coram nos Judice.*

Nor have the Juſtices any power at their Seſſions in *Middleſex* to make any order, the party living in another County. And he is not to be committed until an order made, and a refuſal to pay the 20 s. a month, and if he refuſe this, then (for want of diſtreſs) to be committed, and not before.

By *Jones* and *Croke* Juſtices, it is reaſonable that he ſhould contribute to the maintenance of the child, he being of ability, but this is not the way to compel him. The Juſtices in *Suffolk* may make an order in it, and ſo cauſe the money to be ſent up.

Draper and Town of *Glenfield* in *Com. Leic.*

At Summer Aſſizes before *Hutton* and *Croke* Juſtices, was this Caſe; A grandmother being a perſon of ability, had a poor grandchild relieved by the ſaid Pariſh, the grandmother marries with *Draper*; the queſtion was, whether *Draper* ſhould be taken to be a grandfather within the Statute of 43 *Eliz. ca.* 2, and ſo liable to maintain the child.

Reſol. That he ſhall, for that the wife after her marriage had no ability at all, her eſtate being a gift in Law to the husband.

By *Croke*, Where the grandmother was of good ability at the time of the marriage, it is good reaſon the husband ſhould be charged, but not otherwiſe.

Mich.

Mich. 7 Car. Regis, Gerrards Caſe.

Gerrard married the Grandmother being a poor Widow, but had no means nor advancement at all by her, the husband alſo had but ſmall eſtate; but having been married 18 or 19 years, by induſtry of the wife are come to be of ability: And whether he ſhould provide for a poor grandchild of his wives was the Queſtion.

Croke Juſtice, If grandfather and grandmother have no eſtate, they ſhall not be charged. Secondly, if the grandmother have no means, and ſhe afterwards marry with one that hath, he ſhal not be charged with keeping this child.

But if the husband have ſufficient means with the grandmother in marriage, there he ſhall be charged during the life of the grandmother, and no longer.

If land deſcend to the grandmother after marriage, and the husband enjoys it in her right, here he ſhall be charged with the child.

When the wife hath ability at the time of marriage he ſhall be charged, becauſe by the marriage he hath gotten the means which the grandmother had, out of which the child is to be maintained, and ſo *tranſit cum onere*.

Whitlock Juſtice, The making the order againſt the grandfather in this Caſe was well, he being become of ability by the induſtry of his wife. *Croke contra*, The Juſtices differing in opinion, ordered a trial at Law.

Town of *Kimalton* againſt *Layſtas*, 7 *Car.* at *Hereford* Aſſiſes 1621. *Stat.* 43 *Eliz. cap.* 2.

Winde and his Wife dwelt at *Layſtas* five years; and after came into *Kimalton*, and did there rent a houſe for a year, and having children, the Town fearing they would be chargeable to them, they procure a Juſtice of Peace to charge the Landlord to warn them out of his houſe, or put in ſecurity to ſave the Town harmleſs: The Landlord put them out at the years end, and let his houſe to another.

Winde complains to the Juſtices, who order that the Town of *Kimalton* ſhould provide a houſe for him and his wife, paying a yearly rent, or elſe that the overſeers of the poor do provide for them, which they refuſe to do; whereupon *Winde* complains to the Judges of Aſſiſe.

Reſolved by *Whitlock* Juſtice, That the order made by the Juſtices of the Peace was againſt Law, becauſe that *Winde* was neither poor nor impotent, he being able to work, and had means, and paid his rent: But *Winde* is to provide for himſelf where he can get a houſe; and he might when he pleaſed go again to *Layſtas* where he formerly lived and had means.

Ad Aſs. 19 Martii, 7 Car. Regis 1631. at Salop, Stat. 43 Eliz. cap. 2.

Margaret Brown was begot with child by *Gough*, the child born in *Drayton* in *Com. Salop* 11 years ſince, and *Gough* the reputed father took the child from the mother, and placed him at nurſe elſewhere, and after marries another woman, and dwels with her at S. *Chads* the baſtard-child dwelt with him; afterwards *Gough* the reputed father dies, leaving his wife and divers children, and the ſaid baſtard-child all poor and maintained by the Pariſh.

The mother of the baſtard hath been all this while in ſervice, but is a ſingle woman, able to work, and had 3 l. left by friends, but not yet come into her hands.

Whether this baſtard ſhall be ſent to the Town of *Salop* where he lived ſix 10 years, or to *Drayton* the place of his birth, or to his mother who is not able to maintain him.

Reſol. by *Jones* and *Whitlock* Juſtices, that this baſtard-child is to be ſent to his mother to be kept by her if ſhe be able, if ſhe be not, then to the Town of *Salop*, in regard he had been there formerly ſetled with his reputed father, and becauſe it is the place of laſt ſetling, he being there for 10 years, and the law reſpects the place of laſt ſetling, as well as place of birth.

At the Assises, 28 *Julii*, 5 *Car.* 1629.
Stat. 43 *Eliz. cap.* 2.

Dorothy Clavely with a child under the age of 7 years, going about as a wanderer, came to *Arlee* in *Com. W.* and there desired a Warrant to be conveyed to *Egleshal* in *Com. S.* where the child was born: The Constable of *Arlee* made her such a Pass, and delivered her to the Constable of *Rippesford*, who delivered her to the Constable of *B.* in *Com. W.* where by the way she died; they sent the child to *Rippesford*, they send it to *Arlee*, *Arlee* sent it back to *Rippesford*.

Whether the Parish where the mother died, or where the child was born was to keep the child?

Another Case, One being a wanderer with 3 children, born in three several Parishes, came with them unto *Dale* in the Parish of *Sale* unto one *Burton* her Sister, where she died, and left the three children there.

By *Jones* and *Whitlock* Justices, &c. That the children ought to be kept and provided for by the several Parishes where they were born, and not in the Parish where the mother died *in transitu*, and was so ordered accordingly, because the place of birth is a setling of the children in a place certain; and the wanding of the mother afterwards with them doth not alter the Case.

Resol. also, that the place of birth, or place of last habitation, if the same be known, are

in judgment of Law said to be the places of setling. So that if a man be born in one Parish, and afterward is an inhabitant and servant in another Parish, and after this becomes a wanderer, he is here to be sent to the place of last setling, to be there kept and provided for.

Nota. These children in the two last Cases were sent to the places of their births as poor, not as wanderers or vagabonds.

Note also, that the Statute of 39 *Eliz.* 4. for punishing rogues, that the last Proviso therein shall not extend to children under the age of 7 years, for such shall not be accounted wanderers within this Statute.

At *Lincoln* Assises, 11 *Martii* 9 *Caroli Regis*, 1633.

Upon complaint by Sir *Anthony Irby*, that the Assesments for the poor by the Town of *Boston* and Overseers were unequal.

By *Hutton* and *Croke* Justices; such assesments ought to be made according to the visible estate of inhabitants there both real and personal there, and not for what estate he hath in other Parishes.

He also complained that he had divers tenants there, and that they taxed both him and his tenants.

Resolved, they are by Stat. 43 *Eliz.* 2. to assess the occupiers of Land, and not the lessor who receives the rent, the occupier being by law charged to pay that Sessement.

At *Worcester* Assises, 11 *Martii* 14 *Car. Reg.* 1638. *Stat.* 43 *Eliz. cap.* 2.

Inter Vill. de Suckley, & Vill. de Whitborn.

William Chapel a Creeple born in *Whitborn*, 20 years since he went from thence and dwelt in *Suckley*, and paid rent for a house. And afterwards he came to the Town of *Luston*, and there continued 20 weeks, and wrought as a labourer in a quarrey of stone, and by a fall of a stone his back was broken, and so he was made impotent, and there was taken as a vagrant wandring and begging; upon this he was sent to *Whitborn* where he was born, but they refused to receive him.

By *Jones* Justice: If he did beg and wander at *Luston*, he is then by the Law to be sent to *Whitborn* where he was born, and they ought to provide for him as one of their poor.

Note. At this time it was also resolved, that if one great with child be sent to the house of Correction, and there she is delivered, the child shall be sent to the Parish from whence the mother came, there to be provided for, it being the place where she was last setled.

Nota. It was also resolved, that a Rogue ought not to be sent to the house of Correction, but he is to be whipt and sent to the place where he was last setled, if the same be known, otherwise to the place of his birth.

House of Correction.

But the house of Correction is for the poor of a Parish who refuse to work, there they are to be whipt and set on work. Posses-

Poſſeſſion actual and in Law.

If after the death of *A.* another man abateth or entreth into his houſe forcibly before the heir of *A.* hath gotten an actual poſſeſſion indeed, the heir of *A.* ſhall have no reſtitution, becauſe he had a poſſeſſion in law only, *Lam.* 153. *Dal.* 217.

Power of the County.

Information of a riot is a ſufficient cauſe to raiſe the power of the county, though indeed there were none, *Lam.* 315. *Dal.* 114. *Cro.* 62. b. *nu.* 22. & 64. b. *nu.* 49.

Power of the county is raiſed without knowledge or information of a riot; if when they come, they find one, it is lawful, and they may proceed to puniſh it, *Lam.* 316. *Dal.* 114. *Cro.* 62. b. *nu.* 20.

Power of the county in ſuppreſſing a riot, vide Riot.

The Juſtices of Peace, Sheriff, or Under-ſheriff, in levying power of the County, may have the aid of all the Knights, and other temporal men under that degree that are above the age of 15. and able to travel, upon pain of impriſonment, fine, and ranſome to the King, *Dal.* 113. *Lam.* 315. *Cro.* 157. b. But it is referred to the diſcretion of the Juſtices how many or how few they will have, and in what ſort they ſhall be armed, *Dal.* 113. *Lam.* 315. *Cro.* 64. b. *nu.* 49.

One Just. of Peace may take power of the County to suppress Rioters, and need not tarry till his fellows come, *Cro.* 157. b. *Dal.* 110. *Lam.* 181.

Constable may take the aid of his neighbour to arrest another upon an affray, *Cro.* 158. a. *Lam.* 134.

Sheriff upon a writ of execution returned that he could not execute it for resistance, and was amerced 20 marks, because he took not the power of the County, *Cro.* 158. a. *Lam.* 157. *Dal.* 216.

Preacher.

He that disturbeth a Preacher of purpose maliciously or contemptuously in Sermon-time, is to be bound to his good behaviour, and have three months imprisonment, *Lam.* 416. 1 *Mar.* 3.

If the disturber of any Preacher be arrested and brought before any Justice of Peace upon due acculation and examination heard, either by the arrester or other person, he shall forthwith commit the party so taken to custody by his discretion; and within six dayes after, another Justice joining in examination, they upon confession of the party, or conviction of two witnesses, may commit him to prison for three months, *Lam.* 195, 333. 1 *Mar.* c. 3.

Quære if all the statute of 1 *Mar.* 3. be not repealed by the general words at the later end of the statute 1 *Eliz.* c. 2. *Dalt.* 103, 104. Sir *Nich. Hides* opinion cited, that it was wholly repealed.

Precept,

Precept, *vide* Warrant.

Præmunire.

Refusal to take the oath of the Kings supremacy, the first offence is *præmunire*, the second treason, 5 *El.c.*1. *Lam.*411. 23 *El.c.*1.

To aid, comfort, or maintain one that hath committed treason in using of bulls, is *præmunire*, 23 *El.c.*1. *Lam.*413. *Vide* Treason.

To hold, set forth, or defend the power spiritual of any forrein Prince or person heretofore claimed, used, or usurped within the Kings dominions by writing, printing, preaching, expres deed or act maliciously or directly, or to put in use, or execute any thing to that end, the first offence is *præmunire*, the second treason, 1 *El. c.*1. & 5 *El.c.*1. inquirable by words of 23 *El.c.*1. & *Lam.*411.

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from the Bishop or See of *Rome*, &c. to the intent to uphold the authority of the See of *Rome*, incurreth *præmunire*, 13 *El. c.*2. & 23 *El.c.*1. *Lam.*413.

To bring from the Bishop or See of *Rome*, or any claiming authority from it any *Agnus Dei*, crosses, pictures, beads, grains, or such like superstitious things, or to deliver or offer them, or cause to be delivered or offered to any of the Kings subjects to use or wear in any wise, or receive them to such intent, & not to apprehend the offender, or within three days disclose

him to the ordinary or other Justice of Peace, or within one day deliver things received to a Just. of Peace, 13 *El. c.* 2. & 23 *El. c.* 1. *Law.* 414.

The forfeiture in cases of *Præmunire* upon the Statute of 16 *R.* 2. is to forfeit his lands and tenements in fee for ever, his lands in tail for his life, and all his goods and chattels, and to have a perpetual imprisonment, and to be out of the Kings protection, *Cro.* 14 a. *Dal.* 234. 235. But *quære* if he be attainted upon 27 of *E.* 3. 1. if he appear at the day of the *præmunire* returned, *Dal. ibid. Br. Præmunire* 6. *Cro.* 11. 34. *Instit.* 129. & 130. at large.

A man may not kill him which is attainted in the *præmunire* by 5 *El. c.* 1. but before he might, for they were out of the Kings protection, *Cro.* 15 a. b.

One lawfully imprisoned until the next Sessions for refusing the oath of Allegeance, and there again refusing it, incurres a *præmunire*, except married women, who are only to be imprisoned without bail, 3 *Jac. c.* 4. & 7 *Jac. cap.* 6.

Just. of Peace not disclosing nor certifying within 14 daies, the name of him which bringeth any *Agnus Dei*, crosses, or pictures, to one of the Kings Councel, 13 *El. c.* 2. is *præmunire*, *Law.* 295, 372.

Brokers of bargains contrary to the statute of 37 *H.* 8. *c.* 9. provided against usury, shall be punished as Counsellors, Attorneys or Advocates in case of *præmunire*, 39 *El. c.* 18. 13 *El. cap.* 8.

Delivering or ſending any relief to a Jeſuite, Prieſt, or other remaining in any Colledg of Jeſuites, incurreth *præmunire*. 27 *El. c.* 2.

Preſentment.

Preſentment is a declaration of the Jurors or Officers without any bill offered before. *Lam.* 485.

It differeth from an Indictment, which is the verdict of the Jurors that be charged to enquire of that offence which is offered. *L. m.* 416.

What ſhall be a good Preſentment.

Preſentment at a Seſſions where the ſtyle is in the name of three, and the preſentment taken by two. *Lam.* 383.

Preſentment where ſome of the Jurors be allied, or of bloud to him that procureth the Indictment; but it is no diſcretion in the Juſtices to ſuffer ſuch to be Impanelled. *Lam.* 398.

Preſentment of a Jury of an Hundred, of an offence done in another Hundred. *Lam.* 399.

"Conſtable preſents a fault at the Seſſions "which belongeth to his office, which is al-"lowed by the Enqueſt, it is good: otherwiſe "it ſhall not ſerve for an Endictment. *Cro.* 185. b.

"Conſtables, Churchwardens, Aleconners, "Sides-men, may preſent all offences con-"trary to 4 *Jac. c.* 5.

Preſentment where all were not ſworn, if the Record be that all were ſworn. *Lam.* 389.

Where

Where the declaration of the Officers of the Sessions shall have the force of a Presentment.

A Justice of Peace upon his own knowledg of offences against the statute of 2 & 3 *P. & M. c.* 8. & 5 *El. c.* 13. of High-wayes. *Dal.* 67. *Cro.* 125. b. 195. a. *nu.* 5.

Searchers appointed to examine the true making of tile. 17 *Ed.* 4. *c.* 1. *Lam.* 508.

Constable for sundry points in the statute of Winchester. 13 *Ed.* 1. *Lam. ibid.*

Amendment of a presentment, *vide Venire facias.*

Priests, *vide* Jesuites.

Principal and Accessary, *vide* Accessary.

Prison.

"Imprisonment, is the putting of a person "from his liberty into the custody of the "Law, to answer to that which shall be ob- "jected. *Lam.* 228. *Dal.* 343.

"A man is in prison so long as he is in "sight of his Gaoler, though he break away, *Dal.* 276.

"No man shall commit another to prison "except he be a Judg of Record *Dal.* 344.

"Constable imprisoning a suspect for fe- "lony, may lock the stocks, and put irons on "him, and in conveying him to the Justice "or gaol, may pinion him, or otherwise make "him sure that he cannot escape. *Dal.* 390.

One

One committed to prison for refusing to find sureties for the peace, shall remain there till he freely offer and find them. *Lam.* 93. *Dal* 171.

One committed for denying to find sureties for the peace, may not be delivered upon the death or release of the party, without help of the Sessions or gaol-delivery. *Lam.* 93. *Quære.*

One was imprisoned till he made fine, for that he stood by whilst one was slain, because he did not his best to attach the murderer. *Lam.* 132.

The Sheriff or Gaoler may imprison in his house, or in the common gaol at pleasure. *Dal.* 347. *Quære Cro.* 169. b. *Lam.* 133.

Constable cannot imprison in his house but in the stocks, and that but untill he may provide convenient aid to convey him to the Justice of Peace, or to the gaol. *Dal.* 348. *Lam.* 133.

Justice of Peace cannot commit felons to prisons which be not common gaols, nor make a gaol of their own houses. *Lam.* 133. 5 *H.* 4. c. 10. *Cook* 9. 119. b. 23 *H.* 8. c. 2. *Dal.* 347.

Justice of Peace may commit to the stocks some offenders against certain penal statutes. *Dal.* 347.

Breach of prison is the escape of a Felon, though not indicted, out of the gaol, stocks, or possession of any keeper. *Lamb.* 229. *Dal.* 275.

One imprisoned upon a *Capias pro fine* is to be

be delivered upon payment thereof. *Lam.* 574, or upon pledges by Recognizance for payment thereof. *Lamb. ibid.*

Prisoners.

Every one who is under arrest for felony, is a prisoner as well without prison, as in the stocks, in the High way, or in the possession of him that arrested or hath the keeping of him. *Dal.* 275, 343.

To break prison is felony, being committed for felony. *Lam.* 228, 424.

"It is no matter whose prison is broken, "whether the Kings or other persons, whether it be common or private gaol, or the "Constables house, or others house who hath "the custody of him for felony. *Dalt.* 275, *Stam.* 31.

Rescous to help a prisoner committed for felony to get away, is felony. *Lam.* 229, 424.

If an officer or other whatsoever by his wilfull default suffer a prisoner to escape, it is felony. *Lam.* 229, 424.

Prison-breach is to escape out of the stocks, or out of any mans possession. *Lam.* 229.

"A Constable voluntarily suffereth a thief "to drown himself, it is felony in the Con-"stable, *Dal.* 276. but if the thief kill, hang, "or drown himself, it is a negligent escape. *Dal. ibid.*

Prisoner of sufficient ability shall bear his own charges, and of them that shall be appointed to guard him to the gaol, and he refusing

refuſing, the Conſtable of the pariſh where he dwelleth, by warrant from the Juſtice that committed him, may levy the ſame by diſtreſs and ſale of his goods after apprizement by four of the pariſh, the overplus to be delivered to the owner. 3 *Jac. c.* 10.

Priſoner not of ability, and thoſe that guard him, to have their charges from the place of apprehenſion to the gaol, born by the pariſh where he is apprehended, the ſame to be equally taxed by the Conſtables and Churchwardens, and two or three of the Inhabitants, and allowed by the Juſtice of Peace. 3 Jac. c. 10.

Any lawfully taxed for the charge of bringing a priſoner to the gaol, and refuſing to pay it to the Conſtable or other officer of the Pariſh, by warrant from the Juſtice of Peace that committed him, may levy the ſame by diſtreſs, and (after apprizement by four of the Pariſh) ſale of the goods, giving the owner the overplus. 3 Jac. c. 10.

Defendant in any action for a diſtreſs taken by force of the Statute of 3 Jac. ca. 10. may plead not guilty, and give the ſpecial matter in evidence, and upon recovery or non-ſuit, ſhall have treble damages. 3 Jac. c. 10.

Priſoners diſcharged by Juſtices of Peace who take the Indictment to be void, may be ſtayed if they change their opinion before judgment. *Lam.* 540.

6. A man outlawed for felony is impriſoned amongſt Traytors, and breaking priſon, ſetteth them looſe, this is reſcous

of

" of a traitor, and treaſon. *Cro.* 35. a. *nu.* 5, 6.

Privy Seſſions, *Vid.* Seſſions.

Proceſs.

Proceſs hath the name becauſe it proceedeth or goeth out upon former matter either original or judicial. *Lam.* 519.

Suggeſtions and Informations, whether by word or writing, are but to ſtir up the Juſtices to commend the cauſe to the Inqueſt, and not to award proceſs upon them, *Lam.* 509. unleſs it be in certain cauſes where it is eſpecially given them by ſtatute, *ibid.*

Authority to make proceſs upon indictments is given to the Juſtices by words of their commiſſion, or by implication where the power of hearing and determining is given by their commiſſion. *Lam.* 520.

" Proceſs ought alwayes to be in name of " the King with *Non omittas*, &c. with *Teſte* " of any two Juſtices under their hands, ſit- " ting in Court. *Lam.* 520. *Dal.* 512.

No proceſs, plea, or ſuit is to be diſcontinued by making a new commiſſion of the Peace. 11 *H.* 6. *c.* 6. & 1 *Ed.* 6. *c.* 7. *Lam.* 520. See the end of 1 *E.* 6. *c.* 7.

Proceſs upon all indictments of treſpaſs againſt the Peace, or upon ſpecial ſtatute is *Venire facias*; and if he be thereupon returned ſufficient, then a *Diſtringas infinite*; if he be returned *Nihil habet*, then *Capias*, *alias*, *pluries*, *Exigent*. *Lam.* 522, 523. *Dal.* 412.

Proceſs upon the Statute of unlawfull games, liveries, maintenance, archery, &c.

Veare

Venire facias, Capias, Exigent. 33 *H.*8. *c.*10. *Quere* if it be not repealed by 37 *H.* 8. *c.* 7. *Lam.*523.

Proceſs upon the ſtatute of Victuals, attachments, *Capias, Exigent. Lam.*523,524.

Proceſs upon depraving the Sacrament is *Capias, Exigent,* and *Capias utlagatum,* and may be ſent by any three Juſt. into any Shire, one being of the Quorum. *Lam.*524.

Juſt. of Peace may award proceſs into a forrein county againſt an accountant for money levied for making a gaol. 25 *H* 8. *cap.*5. *El.c.*24. *Lam.*525.

Juſtices of Peace where the ſervant departed, may award a *Capias* to the Sheriff of the Shire whereinto he departed, returnable before themſelves, 5 *El.c.*4. So where a decayed bridg is in one county, and the party or land chargeable do lye in another county. *Lam.*525. 22 *H.* 8.5.

One indicted of treaſon or treſpaſs in one county, is impriſoned in another; the Juſtices may award an *Habeas corpus* to remove him before themſelves. *Lam.*526.

Proceſs upon Indictment of felony may be ſent into any forrein county. 5 *E.*3. *c.*11. *Lam.* 527.

Proceſs upon Indictment of felony is two *Capias* and an *Exigent.* 23 *E.* 3. *cap.*14. *Lam.* 528.

Indictment of treaſon, felony, or treſpaſs in one county nameth the Indicted to be of another; the firſt proceſs ſhall go into the county where he is indicted, the ſecond to the

county

county where he is named, to be returnable three months after: and if he be not to be found there, then that Sheriff to make proclamation at two County Courts before the return, that he appear before the Juſtices of the County where the indictment is at the day in the *Capias*; and if he appear not, an *Exigent* to be awarded. 8 *H.* 6. *c.* 10. *Lam.* 525, 526.

The two Juſtices of the Peace which have the overſight of the Sheriffs books, and of the amerciaments, upon ſuggeſtion may make proceſs as in an action of treſpaſs againſt the offenders of that Statute to anſwer before them. 11 *H.* 7. *c.* 15. *Lam.* 360.

No proceſs is to be awarded by the Juſtices after outlawry, but they are to certify the outlawry into the Kings Bench. *Lam.* 521, 522.

Proceſs upon Informations muſt be ſuch as the Statute whereupon they are grounded doth appoint. *Lam.* 528.

The Sheriff or his miniſter that hath arreſted, or cauſed any fine, ranſome, or amerciament to be levyed by reaſon of indictment or preſentment at the Sheriffs turn or law-day without proceſs from the Juſtices, loſeth 40 pound. 1 *E.* 4. *c.* 2. *Lam.* 431, 521.

Informations made in the Seſſions, that an Ale-houſekeeper hath done any thing whereby he hath forfeited his recognizance, the Juſtices of the Peace may award Proceſs againſt him, to ſhew cauſe why he ſhould not forfeit his Recognizance. *Lam.* 524. but

Quere

Quære what Proceſs. *Lam.* 524.

Proceſs cannot be awarded by the Juſtices of Peace upon any forfeited recognizance, except ale houſes, but they muſt certify them to the higher Courts. *Lam. ibid.*

Proclamation.

Juſtices of Peace cannot acquit felons by Proclamation, or without ſufficient acquittal; and if they cannot indict them, they muſt remain till the gaol delivery. *Lam.* 549. 550.

The form of Proclamations to remove a force upon a writ upon the ſtatute of *Northampton. Vid. Lam.* 168, 169. *Dal.* 61, 62.

Conſtable, if any affray be dangerous, may make proclamation. *Lam* 132. *Dal.* 33. maketh *quære.*

One Juſtice of Peace may make a proclamation in the Kings name to ſtay a riot. *Lam.* 383. *Quære*, for the ſtatutes 1 *M.* 12. 1 *El. cap.* 19. are expired.

Juſtices of Peace at every Seſſions uſe to make proclamation, that if any will inform for the King, he ſhall be heard. *Lam.* 520.

Proclamation annexed to the ſtatute of 4 *H.* 7 *c.* 12. is to be read every Quarter Seſſions, or every Juſtice preſent loſeth 20 *s.* 4 *H.* 7. 12. *Lam.* 633. *Quære* if of force now.

Promoters, *vide* Informers.

Prophecying.

Prophecier with intent to make rebellion, diſ-

diſſention, loſs of life, or other diſturbance in the Realm, being convicted thereof before the Juſtices of Peace, ſhall be impriſoned one year without bail for the firſt offence, and forfeit alſo ten pound; for the ſecond offence impriſoned all his life, and loſe all his goods and chattels real and perſonal, and to be impeached within 6 months. 5 *El. c.* 15. *La.* 415, 416.

Purveyors.

If purveyors, caterers, or ſervants of any man but the King, take any thing without the owners will, or as they can agree and make preſent payment, it is felony. *Lam.* 231. *Dal.* 282. *Cro.* 48. a.

Purveyor ſhall not take cart or other proviſion of any Prelate or Clerk.

Purveyor, his deputy, undertaker, or ſervant, maketh purveyance without warrant of any thing above 12 pence, without conſent of the owner, it is felony. 2 & 3 *P. & M. c.* 6. *Lam* 422. *Dal.* 286. *Cro.* 48. a.

Purveyor taking any Carriage in other manner then is compriſed in his commiſſion, it is felony. 36 *Ed.* 3. *cap.* 2. *Lam.* 423. *Dal.* 286.

Or any purveyance without Commiſſion under the Great Seal. *Dal. ibid. Cro* 48. b. it is felony.

Or make purveyance of goods above 12 pence, without teſtimony and apprizement of the Conſtable and four honeſt men of the town, and without delivering Tales or Indentures under his Seal teſtifying his purveyance,

reyance, it is felony. *Lam.* 423. *Dal.* 286.

Quære if it be but of the value of 40 s. or under. *Quære* by whom the apprizement ſhall be made, and between whom the Indentures ſhall be made. *Dal.* 287.

To take more victuals or carriages for the Kings houſe, then he ſhall deliver to the ſame houſe, is felony. *Dal.* 287.

To take ſheep in their wools betwixt Eaſter and Midſummer at ſmall prices, and to carry them to his own houſe to ſhear them, *Lam.* 423. *Dal.* 286. 23 *E.* 3. *cap.* 15. is felony.

Quæ if the felony of purveyors by 36 E. 3. *c.* 6. be not altered by 23 *H.* 6. 1 & 2.

Purveyour taking any thing of the value of 40 s. or under, without preſent payment, loſeth double the value of the thing taken; and the Conſtable upon requeſt made, not aiding him to reſiſt the purveyor ſo taking, loſeth double damages.

And any of the Kings Officers procuring any to be arreſted or vexed for ſuch reſiſtance, loſeth 20 l. 20 *H.* 6. *c.* 8. & 23 *H.* 6. *c.* 2. *Lam.* 439.

Purveyor taking any thing of any man to ſpare him, is to be impriſoned two years, pay treble damages, and ranſome. *Lam.* 439.

Purveyor taking corn by other meaſure then the ſtricken buſhel, or by any more then eight ſuch buſhels to the quarter, and that hath taken Carriages therefore without making ready payment, is to be impriſoned one year, and pay five pound unto the King,

and

and 5 l. unto the party. 25 *E.*3.*c.*1. 36 *E.*3. *c.*3. *&* 1 *H.*5.*c.*10. *Lam.*439.

Purveyour of timber or his deputy, causing any timber to be felled fit for barking, but only in barking time, except trees for building or repairing the Kings ships or houses, or having taken any profit by the lops, tops, or barks of any trees, or having taken from the owner any more of any tree then only the timber, loseth 40 s. for every tree. *Lam.*438, 439. 1 Jac. c. 22.

Dockets of Purveyors ought to be delivered over to the Justices of Peace at the next General Sessions, and by the Justices to be certified to the Treasurer of the Kings household. 2 *&* 3 *P.& M.c.*6. *Lam.*614.

Purveyour taking any provision for the Kings house by force of his Commission, and selling away the same, his first taking is extortion, and he is punishable as a trespassor, if not as a felon. *Dal.*287.

Undertakers, deputies, servants, and all other which under colour of the Kings Commission to the Kings Purveyors, do take any victuals against the statute, are lyable to the pains therein mentioned against purveyors. 2 *&* 3 *P. & M. c.*6. *Cro.*48 b.

Just. of Peace are to certify to the Treasurer of the Kings household the dockets of purveyors (brought to their Sessions by Constables) that the serving of such Commissions and the true answering of purveyances may be better examined thereby. *Lam.* 590. 2 *&* 3 *P.& M. c.*6.

Putting

Upon malice prepenſed to put out any ones eyes, is felony, 5 *H.*4.*c.*5. *Cro.*49.2. *Lam.* 256, 420. *Dal.* 280.

Quarter-Seſſions, *vide* Seſſions.

Rape, or Raviſhment.

Deflowring of a Maid under ten years old, with, or without conſent, is felony without Clergy, 18 *El.c.*6. *Lam.* 256, 421. *Dal.* 290. *Cro.*47. b.

Raviſhing of a woman againſt her will, without conſent either before or after the fact, or being with force, though after ſhe do conſent, is felony without Clergy, *Weſt.* 2. *c.*34. 18 *El.c.*6. *Lam.*256,241. *Cro.* 47. b. *Dal.*290.

To be preſent and aiding the raviſher, is rape, *Lam.*258. *Cro.*47.b. *Stam.*24. *Dal.*290.

No rape where the party deflowred conceiveth with child, *Lam.*257. *Dal.*289. *Cro.* 47. b. *Stam.*24.

Deflowring of one kept as the deflowres concubine, is a good plea, upon an appeal that it is no rape; otherwiſe of another mans concubine, *Lam.*257. *Cro.*47.b. *Stam.*24. *Dal.* 290.

Force without carnal knowledge is no rape, *Lam.* 257, 258.

See the Stat. *de officio Coronatoris* made 4 *E.*

1. Complaint must be made within forty daies, but otherwise in an appeal.

A woman that is raviſhed ought preſently, to levy Hue and Cry, and to complain thereof preſently to ſome credible perſons, *Dal.* 289. *Cro.* 100. a. *Stam.* 22. in indictment of rape, no time to be obſerved.

To raviſh a woman, who conſenteth for fear of death, &c. is raviſhment; for conſent ought to be voluntary and free, *Dal.* 290. *Cro.* 48. a.

"Conſenting after rape doth not hinder "but that the husband, (and if ſhe have no "husband) the father or next of blood may "purſue the raviſher, to have him convicted, "*P. R.* 133.

Rates, *vide* Taxations.

Rebellious Aſſemblies.

The ſtatutes 1 *M.* 12. and 1 *Eliz.* are diſcontinued, *Dal.* 222.

Recognizance.

Recognizance is a bond of Record teſtifying the Recognizor to owe a certain ſum of mony to ſome other, and the acknowledgement of the ſame is to remain of record, and none can take it, but only a Judge or officer of Record, *Dal.* 334.

Every Recognizance taken by a Juſtice of Peace, muſt be made by theſe words, *Domino Regi*, upon pain of impriſonment of any perſon that ſhall take it otherwiſe, 33 H. 8. c. 39.

Cro.

Cr. 196. b. *nu.* 11. *Lam.* 162. *Dal.* 175, 379.

Sureties in Recognizances ought to be Subsidy-men, and they must be two besides the party himself, *Lam.* 101. *Dal.* 175.

It is in the discretion of a Justice of Peace, if he take a recognizance *ex officio*, to appoint or allow the number of the sureties, their sufficiency in goods and lands, the sum of mony, and how long he shall be bound, *Dal.* 174. *Lam.* 100.

If a Justice of Peace be deceived in the ability of the sureties, he may compel the party to put in another, *Lam.* 100. *Dal.* 178.

Recognizance of the Peace, without expressing in the condition that it was for keeping of the peace, seemeth void, *Lam.* 103. *Dal.* 175.

So it is, if a recognizance be, that a recognizor shall not maim or beat *A.* without expressing keeping the peace, *Lamb.* 103. *Dal.* 175.

Recognizance comprehending no time of appearance, but generally to keep the peace, is good, *Lam.* 103. *Dal.* 176.

Recognizance for the peace upon a *supplicavit*, is not of necessity to be returned untill *certiorari*, *Lam.* 109. *Dal.* 177.

Recognizance taken to keep the peace against one especially, *quære* if it be good, *Lam.* 104. *Dal.* 176.

Recognizance taken to be levied only of the goods, or only of the lands of the cognizor, seemeth to be good enough, *Lam.* 104. *Dal.* 167.

" Wife or infant under the age of diſcre-
" tion are to be bound to the peace by their
" ſureties only, *Lam.*101.

Recognizance taken *ex officio*, if default of appearance be made, may be removed by *Certiorari*, *Lam.*109. *Dal.*178.

Recognizance not forfeited, is diſcharged by the death of the King, of the cognizor or the party ſuing for it, if it were againſt him alone, *Lam.* 113. *Dal.* 141.

The ſureties dying, the recognizance is good againſt the executors, *Lam.* 113. *Dal.* 141.

Recognizances taken, are to be certified notwithſtanding the death of the King, *Lam.* 103. or of the recognizor, or of the party to whoſe ſuit it was granted, *Lamb.* 113.

The Recognizance being forfeited, the Juſtices ſhall in diſcretion require new ſureties, or commit him to priſon, *Lamb.*114. *Dal.* 163.

Recognizance of the peace brought into the *Cuſtos Rotulorum*, and not purſued by the party, may be called upon for the King by the Clark of the Peace, *ibid.*

Juſtices of the Peace cannot award proceſs upon a forfeited Recognizance, but it muſt be certified into the higher Court, except recognizance for Alehouſes, *Lam.* 589. *Dal.* 177. *Cro.*167.a. & 196. b. *n.*9. and the cauſe of the forfeiture, *Dal.*177.

Recognizances or examinations taken concerning ſuſpects or felons, are to be certified at the next general Gaol-delivery, 2 & 3 P. & M.c.10. *Lam.*212.

Recognizances taken by a Juſtice of Peace *ex officio*, are to be brought into the *Cuſtos Rotulorum* at the next General Seſſions; *Lam.* 109. *Dal.* 177. *Cro.* 139. a. but no pain by the ſtatute of 3 *Hen.* 7. 1. if he do not, *Br.* Peace 11.

None but the King can pardon a Recognizance once forfeited, *Lam.* 111. *Cro.* 140. b. *Dal.* 181.

"Recognizance taken where the Juſt. hath "no authority, is void. And taken by au- "thority, if the Juſtice inſert other matter, "it is void, *Cro.* 196. b. *nu.* 7.

"A Recognizance taken by a Juſtice of P. "is matter of Record ſo ſoon as it is taken "and acknowledged, although it be not made up, but entred into his book, nay, although "it be not entred, *Dal.* 336. *Stam.* 77. b. *E.* "*Brook Record* 58.

Reconciliation, *vide* Treaſon.

Records.

Records be nothing elſe but memorials or monuments of things done before Judges that have credit in that behalf, *Lam.* 63.

If a Record ſay any thing, no man ſhall be received to aver or ſpeak againſt it, *Lam.* 63.

The Judges may correct or amend any Record in the term wherein the Record is to be made, but after they have no power at all over them, *Lam.* 64.

The Record or Testimony of a Justice of Peace is in some cases of greater force then an indictment of a Jury, and against it the party shall not be admitted to traverse, *Lam.* 65.

Embezelling of a record is felony, but not to be dealt withall by Justices of Peace, *Lam.* 231, 549.

Precepts for surety of the Peace, special Records for conviction of forcible entries, made out of the Sessions, are not records of Sessions, *Lam.* 389.

Records of causes determinable at the Sessions taken by the Justices of Assize at their Gaol-delivery as Justices of Peace, are to be left with the Clerk of the Peace to be brought to the next Sessions of the Peace, *Lam.* 391.

One pleadeth a record before other Justices by way of Justification, the Justices ought to give him day to bring in the record, *Lam.* 555.

A Justice of Peace upon a Commission being convicted by oath of twelve men of embezelling, wilful rasing of an indictment, or malitiously enrolling that for an indictment which was not found, or changing an indictment of trespass into an indictment of felony, loseth his office, and shall be fined and imprisoned according to his offence, *Lam.* 631.

"To rase a record is felony; yet if a "Judge do embezel or rase a record, it is but "misprision in a Judge, *Dal.* 283. *Br. Coron.* "174. & *Treason* 31. "Em-

" Embezelling of any record, writ, return, " panel, process, or warrant of Attorney " in Chancery, Kings Bench, Exchequer, " Common Pleas, or Treasury, is felony in " the parties, their counsellers, procurers, or " abetters, *Dal. ibid.*

" *But it seemeth that Justices of Peace have* " *not to do with these felonies*, Lam. 549. Cro. " 56. 8 *H.6.c.*12. Dal. 283. *for that these re-* " *cords do not remain with the Justices of* " *Peace*, Cro. ibid.

Recusants.

Wilfully absenting themselves from Church 12 months, contrary to 1 *El.c.*2. and convicted, being of 16 years of age, are to be bound to the good behaviour, upon certificate of one Justice of Peace to the Kings Bench, 1 *Eliz.* 2. besides other penalties, 23 *Eliz.* *Dal.* 104.

Every Justice of Peace may give notice to any person to forbear to receive or keep such as shall obstinately refuse to come to the Church by the space of a month together, 35 *Eliz. cap.* 1.

Heir of a Recusant being a Recusant at his Ancestours death, conforming himself, and taking the oath of supremacy made 1 *Eliz.* before the Archbishop or Bishop of the Diocess, shall be free from penalties for the recusancy of his ancestour, 1 *Jac. c.*4.

Heir of a Recusant being under 16 years at the death of his ancestour, at or after 16 years becomes a Recusant, he is not to b

freed of his ancestours, penalties for recusancy, till conformity as aforesaid, 1 *Jac. c.* 4.

Two parts of Popish Recusants lands being seised for paiment of 20 pound a month, the third is not to be charged with it, but is to descend to his heir, and the two parts to remain in the Kings hands till he be satisfied there of both for the ancestour and heir, 1 *Jac. cap.* 4.

Any selling his children beyond the Seas out of the Kings dominions to any religious house, to be instructed or strengthened in Popery, looseth 100 pounds, and the person so going, or being there, and not returning within one year, and submitting, is disabled to inherit, purchase, or take any lands or goods in his Majesties dominions, till conformity, 1 *Jac. cap.* 4.

Estates in trust for benefit of any sent beyond the Sea to any religious house to be instructed in Popery, are void, 1 *Jac. c.* 4.

"Just. of P. not certifying at the next Qu. "Sessions the oaths taken of any reconciled "to the See of *Rome*, upon his submission, "returning into the Realm, doth forfeit 40 "pounds, 3 *Jac. c.* 5. *Lam* 633.

Forfeitures upon the statute of 1 *Jac. cap.* 4. against Popish Recusants, half to the King, and half to the suer in any the Courts of Record at Westminster by action of debt, &c. 1 *Jac. c.* 4.

Popish Recusant conforming himself in coming to Church according to the Law, and after convicted for not receiving the Sacra-

Sacrament once every year, loſeth for the firſt year 20 pound, for the ſecond year 40 pound, for the third year 60 pound: And if after conformity in receiving the Sacrament, he offend therein, he loſeth for every offence 60 pound, one moiety to the King, the other to the Informer, to be recovered in any of the Kings Courts at Weſtminſter, or before the Judges of Aſſize, or Juſtices of the Peace at their Qu. Seſſions by action of debt, &c. 3 *Jac. c.* 4. *Lam.* 418.

Conſtables and Churchwardens, or, for want of them, the high Conſtable once every year, are to preſent the monthly abſence of Popiſh Recuſants from Church, with the names of the ſervants and children above nine years old, or loſe 20 ſhillings for every offence, and upon their conviction to have 40 ſhillings out of their goods, 3 *Jac. c.* 4. *Lam.* 616.

Clerk of the Peace is to record the Preſentment of Conſtables and Churchwardens for monthly abſence from Church, without fee, or loſeth 40 ſhill. 3 *Jac. c.* 4.

Offences upon any ſtatute for not going to Church, or receiving the Sacrament, may be heard and be determined by the Juſtices of Peace at their Qu. Seſſions, as Juſtices of Aſſize might before, 3 *Jac. c.* 4. *Lam.* 617.

Upon an indictment for not coming to Church, or not receiving the Sacrament, Juſtices of the Peace at their Qu. Seſſions may by proclamation, command the indicted to render his body to the Sheriff before the next

Qu. Sessions or Assizes, and in default of appearance, then the same to be a sufficient conviction, 3 *Jac. c.4. Lam.616.*

Popish Recusant convicted of not coming to Church according to law, shall in Easter or Michaelmas term next after the conviction, pay into his Majest. receit after the rate of 20 pound a month, and so to continue without any other indictment, till he conform himself; and in default of payment, all his goods and two parts of his lands to be seised till conformity, leaving the mansion-house to the third part, 3 *Jac. c.4.*

The King seising two parts, may not let it to any Recusant, nor for their use, and the Lessee must give security to the King not to commit waste, 3 *Jac. cap.4.*

Indictments against Popish Recusants are not be avoided for want of form, untill conformity, 3 *Jac. cap. 4.*

Justices of Peace may hear and determine all offences against the statute 3 *Jac. cap. 4.* except treason, 3 *Jac. cap.4. Lam. 617.*

Attainder of felony upon the statute of 3 *Jac. c.4.* of Popish Recusants, barreth not dower, nor corrupteth bloud, 3 Jac. c.4.

Any pursued for doing any thing warranted by the statute of 3 Jac. c.4. may plead the general issue, and give the special matter in evidence, 3 Jac.c.4.

Husband is not chargeable with the forfeiture of the wife upon the statute of 3 Jac.c.4. for not receiving the Sacrament, nor the wife after his death.

Popish

Popish Recusant convict, coming to the Court where the King or his heir apparent is, without the Kings command, or warrant in writing from the Counsel, loseth 100 l. 3 *Jac. c.*5. the one half to the prosecutor.

Recusants convicted, or other forbearing for three months to hear divine service, now dwelling in *London*, or within ten miles (except tradesmen having no other dwelling) are to depart within forty daies, and if they come to dwell there within three months, then to depart within ten daies after conviction, and to deliver their names to the Mayor of *London*, or the next Justice of the County, or lose 100 pound, 3 *Jac. cap.*5. the moyety to the prosecutor.

Every one not repairing every Sunday to some usual place appointed for Common-Prayer, there to hear divine service, upon conviction within one month after default, upon confession, or oath of one witness, one Just. of P. may call the offender before him, and if he cannot satisfie the Justice by excuse for his absence, the Churchwardens by warrant from the Justice of Peace, may levy twelve pence for every default by distress and sale of the offenders goods; and in default of distress, the Justice may commit him till he pay it, which is to be imployed for the poor, 3 *Jac. c.*4. *Dal.* 105. *Coke* 11. 61. b.

They which harbour within their houses any (except parents or others to whose custody they are committed) or knowing the same, retain in their service any absenting themselves

a month

a month together from Church without reasonable excuse, lose ten pound a month, 3 *Jac. cap.* 4.

The King, or five Lords of the Privy Councel, may by writing under the hands of the Privy Councel, licence a Popish Recusant confined within five miles, to travel out of his compass for such time as is contained in the licence, without inserting any cause, 3 *Jac. cap.* 5.

Popish Recusant confined to five miles, informing upon oath four Justices of Peace that he hath necessary occasion to travel further, and that he will make no causeless staies, they with the assent of the Bishop of the Diocess, Lievetenant or his Deputy, under their hands and seals, and specifying in their licence the cause and time of travel, may by licence under their hands and seals give liberty to him to travel forth of his compass, all other licences to be void; and any travelling without such licence, not having taken such oath, shall forfeit as a Recusant convicted by the statute of 35 *Eliz. cap.* 2. 3 *Jac. cap.* 5. *Dal.* 169. *Lam.* 365. and any one of the four Justices may minister the oath, 3 *Jac. cap.* 5. *Lam.* 296.

Statute 35 *El. c.* 2. confining Popish Recusants to certain limits is hereby confirmed, and the proviso for licensing them to go beyond their limits is hereby repealed, 3 *Jac. cap.* 5.

Popish Recusants convicted, are not to practice the common or civil law, nor physick,

sick, nor to execute any offices, places, or trades belonging to any of them, nor to be Minister or Officer in any Court, nor to have any place of command, or office in war, nor any office or charge in any ship, Castle or fortress of the Kings, on pain of 100l. one moyety to the King, the other to him that will sue. 3 *Jac. cap.* 5.

Popish Recusant convicted, or whose wife is a Popish Recusant, during recusancy not to execute any publick office or charge in the Realm. 3 *Jac.* c. 5.

Married woman being a Recusant convicted, whose husband is not convicted, not conforming her self according to law, forfeiteth to the King two parts of her dower or joynture, and is disabled to be executrix or administratrix to her husband. 3 *Jac.* c. 5.

Popish Recusant upon conviction is to be adjudged excommunicate to all intents, except in being able to sue for or concerning his lands and leases not seised by the King. 3 *Jac. cap.* 5.

Recusant convicted, married otherwise than by a Minister lawfully authorized, and according to the orders of the Church, is disabled to be tenant by Curtesy, or in dower, or by Joynture, or to have widows estate, or frankbank, or any part of her husbands goods; and marrying any by whom he is not intituled to be tenant by the Curtesy, loseth 100l. one moyety to the King, the other to him that will sue. 3 *Jac.* c. 5.

Child of a Popish Recusant, not baptized accor-

according to the orders of the Church within one month after the birth, the father or mother, if he dye within the moneth, loſeth 100 pound, whereof one third part to the King, another to the poor of the pariſh, and the third to him that will ſue, 3 *Jac. c.* 5.

Popiſh Recuſant not excommunicated, buried otherwiſe then according to the orders of the Church, his executors or adminiſtrators knowing it, or cauſers of it, loſe 20 pound, one third part to the King, one third part to the poor of the pariſh, and one third part to him that will ſue for it. 3 *Jac. c.* 5.

Popiſh Recuſant convicted, during his conviction, to be from the ending of that Parliament diſabled to grant any advowſon, &c. or to preſent or nominate to any ſpiritual living, the ſame to remain to the Chancellors of the Univerſities of Oxford and Cambridg, according to the ſeveral ſhires limited in that ſtatute, ſo that they preſent none having a former benefice with Cure; if they do, the ſame to be void. 3 *Jac. c.* 5.

Penalties upon the ſtatute of 3 *Jac. c.* 5. againſt Recuſants to be recovered in any his Majeſties Courts of Record by action of debt, bill, plaint, or information, without eſſoin, protection, or wager of Law. 3 *Jac. cap.* 5.

Married woman under Baroneſs, convicted of not coming to Church, and of not receiving the Communion, who doth not within three months after conform her ſelf, to be committed by two Juſtices of the Peace,

one

one being of the *Quorum*, untill conformity, unless her husband pay 10 pound a month to the King, or the third part of his lands. 7 *Jac.* c. 6.

The penalty of 12 d. and of 20 l. a month, shall be both of them paid by a Recusant convict. *Dal.* 106. *Co.* 11. 63. b.

Two Justices of the Peace may require a convicted Recusant of small ability, who repaireth not to the place of his dwelling, or place of his birth, there to notify himself to the Minister and Constables according to the statute of 35 *El.* or afterwards removeth five miles from the same, (if upon apprehension he conform not himself within three month) to abjure the Realm, and assign him his time and haven. 35 *El.* c. 2. *Dal.* 109.

The Form of the Oath.

You shall swear you shall depart this Realm of England, *and all other his Majesties dominions, and that you shall not return hither or come again into any of his Majesties dominions without licence of our Soveraign Lord the King, or of his heirs; So help you God.* Dal. 109. Stam. 119.

Every such Recusant that refuseth to abjure, or after abjuration doth not within the time appointed go to such haven and depart, or after such abjuration returneth without his Majesties special licence, in every such case, shall be adjudged a felon. 35 *El.* c. cap. 2. *Dalton* 109. *Lam.* 419. 1 *Jac.* cap. 4.

The

The Justices of Peace before whom such abjurations shall be made, must presently cause the same to be entred of Record before them, and certify it at the next General Gaol-delivery in the said county, *ibid.*

The Bishop of the Diocess, or any one Just. of Peace, or Minister of the Parish where such convicted Recusant shall be, may require his submission, *ibid.*

Justices of Peace at their Quarter Sessions may inquire, hear and determine of all Recusants, both for not coming to Church, and not receiving the Sacrament according to law, as Justices of Assise and gaol-delivery may do, and at the Sessions (in which such Indictment shall be taken) make proclamation to render their bodies to the Sheriff, and before the next Quarter-Sessions, at which if the offender make not appearance of Record, it shall be a conviction. 3 *Jac. cap.* 4. *Lam.* 616.

"Popish Recusant convicted, is disabled "to be executor, administrator, or guardi-"an: the guardianship to go to the next of "kin to whom the land should not come, be-"ing no Recusant; and he to accompt to "the heir, as the case shall require. 3 *Jac. cap.* 5.

"Recusants armour, gun-powder and mu-"nition, by warrant of four Justices of Peace "in their General Sessions, shall be taken "from them, (other than necessary weapons "allowed by the said Justices for their de-"fence) and kept at the Recusants costs, "where

"where the Justices shall appoint. And the "Recusant, refusing to tell what armour he "hath, or disturbing the delivery thereof, "forfeiteth the armour, and is to be impriso-"ned for three months without bail. 3 *Jac.* *c.* 5. *Lam.* 617, 618.

Regrator.

Regrator is he that buyeth live or dead victuals, tallow, or candles in the market, and selleth the same there, or within four miles, 13 *El. c.* 25. *Lam.* 450. 5 *Ed.* 6. *cap.* 14. 5 *Eliz.* *c.* 12.

Release.

Justice of Peace compelleth one of his own motion to give surety of the peace until a certain day, he may by like discretion release it before the day. *Lam.* 110. *Cro.* 139. b. *nu.* 16. *Dal.* 179.

Party bound generally to keep the Peace without any day limited, it is for life, and no man can release it. *Lam.* 110. *Dal.* 179. *Cro.* 142. b. *Brook Peace* 17.

Recognizance is taken at the suit of *A.* to keep the peace against him only, *A.* may release it before the same Justice or any other that will certify it. *Lam.* 110. *Dal.* 179. *Cro.* 139. b. *nu.* 10. 169. a. That release being certified at the next Quarter Sessions will discharge the party bound of his appearance, so that he shall not be called upon for his recognizance. *Dal. ibid. Cro.* 139. b. *nu.* 15.

Recognizance is taken *versus cuxtlum populum*,

pulum, præcipue verſus A. yet *A.* may releaſe it before any Juſtice: *tamen quære. Lam.* 110. *Cro.* 142. b. *Bro. Peace* 17. *Dal.* 180.

Recognizance is taken by diſcretion or upon ſuit, the King cannot releaſe or pardon it before forfeiture. *Lam.* 111. *Cro.* 140. b. 141. a. *Dal.* 180.

The peace being releaſed, the recognizance muſt not be cancelled, but certified at the Seſſions with the releaſe, leſt peradventure the peace was broken before the releaſe made. *Lam.* 111. *Dal. ibid. Cro.* 139. b. *m.* 16. 169. a.

Whether the good abearing taken upon complaint may be releaſed by any ſpecial perſon. *Quære Lam.* 123. *Dal.* 179.

Neither the Juſtice of the Peace, nor the party can diſcharge a recognizance of the Peace by the releaſe out of Seſſions; for firſt, the recognizance is made to the King, and therefore none but the King can releaſe or diſcharge it. Secondly, the recognizance is taken for the parties appearance, and the releaſe cannot diſcharge the appearance. *Dal.* 180. *Br. Peace* 17.

The appearance is requiſite, notwithſtanding any releaſe made; firſt, for the ſafety of the recognizance; ſecondly, that others may object in open Seſſions, if he have broken the Peace, that he may be indicted thereupon. *Dal.* 180.

E contra Cro. If the Juſtice of Peace at the Seſſions do certify the releaſe, by this the obliged is diſcharged, and ſhall not be called upon

en for his recognizance, nor his default recorded; for the principal cauſe of the recognizance was the keeping of the Peace, the which is diſcharged by the releaſe which is certified at the Seſſions and then the appearance is but acceſſary to the ſame, and the intent is only that then he ſhould find new ſurety if the party will not releaſe; and this is the common uſage. *Cro.* 139. *nn.* 15.

Vide plus Recognizance, and Forfeiture.

Religious Houſes.

The owner of the ſcite of a religious houſe diſſolved, in yearly value under 200 pound, muſt keep a continual houſe there, or loſe 20 nobles a month, to be enquired of and determined at the Quarter-Seſſions. 27 *H.* 8. *c.* 28. 5 *El. c.* 2. *Lam.* 471.

Replevin, *vide* Bailment.

Reſcous of a Felon.

Reſcous is to help a priſoner to get away; and if it be a felon, it is felony. *Lam.* 229. *Dal.* 274, 275.

Reſcous of a felon before arreſt is no felony, otherwiſe after arreſt. *Lam.* 230. *Dal.* 276. *Quære Stamf.* 31.

Reſcuing a priſoner going to the gallows is felony. *Dal.* 276.

A warrant being granted by a Juſtice of the Peace for unlawful hunting of Deer or Conies, to make reſcous thereupon is felony. *Dal.* 75.

Reſcous.

Reſcous againſt an officer or perſon authorized to execute the Statute of 39 *El.* c. 4. loſeth 5 l. and is to be bound to his good behaviour. *Dal.* 128.

" If a ſtranger take one out of priſon with " the priſoners aſſent, if he be in for felony, it " is felony by the common law in the reſcuer, " and he is a principal by the ſtatute *De pri-* " *ſonum fraugentibus. Cr.* 38. a. *nu.* 21.

" One is in the ſtocks for ſuſpition of fe- " lony, and is let out by a ſtranger; it is felo- " ny, although the party who eſcaped is not " indicted. *Cro.* 35. a. *nu.* 3.

Reſtitution of Poſſeſſion.

None ſhall have reſtitution, but ſuch as were put out of houſe or land. *Dal.* 214. *Cro.* 162. b. *Lam.* 153.

If it be found upon enquiry that any have entred or held with force, contrary to the ſtatute 8 *H.* 6. c. 9. the Juſtice of Peace may re-ſeiſe and put the party ſo put out in full poſſeſſion. *Cro.* 161. b. *Dal.* 214. but the putting out muſt firſt be found. *Lam.* 152. *Cro. ibid.*

The Juſtice of Peace needeth not to ſtay or ſtand upon the right or title of either party. *Dal.* 214. *Cro.* 164. a.

No reſtitution is to be made where there was only a poſſeſſion in Law. *Lam.* 153. *Dal.* 217.

In a reſtitution it is not enough that the putting out be found, unleſs the Indictment do alſo contain in it *adhuc extra tenet. Da.* 214. *Cr.* 163. b. *La.* 153.

Re-

Reſtitution ought to be made to none other then the party put out. *Dal.*214. *Cro.*162.b. *Lam.*153.

After the entring or detaining with force found, the Juſtice of Peace may by himſelf or precept to the Sheriff under the teſtimony of himſelf alone reſtore the party grieved to his poſſeſſion. *Dal.*216. *Lam.*156.

None can make reſtitution but they before whom the Indictment is found, but the Juſtices of the Kings Bench, either upon certificate made by the Juſtice of Peace before whom it was found, of the preſentment, or if the ſaid preſentment or indictment be removed by *Certiorari*. *Dal.*216. *Lam.*157,158.

If the Sheriff return upon a precept or writ of reſtitution that he cannot make reſtitution for reſiſtance, he ſhall be amerced, for he may take the power of the county. *Dal.*216. *Lam.*158. *Cro.*163.b.

Juſtice of Peace before whom the preſentment was made, dyeth before reſtitution; *quære*, whether the Juſtices at the Seſſions can award it. *Lam.*157.

Juſtices of Peace ought not to award reſtitution where the indictment is inſufficient in Law, either in matter or form. *Dal.*215.

In the Indictment, 1. not only an entry muſt be, but alſo a putting out. 2. The Indictment muſt expreſs the quality of the thing, (*viz.*) whether it be meſſuage, Cottage, meadow, paſture, wood, or land arable. 3. It muſt ſay, *Et adhuc extra tenent.* 4. *Expulerunt & adhuc extra tenent.* 5. One of theſe two words,

words, *manu forti*, or *cum multitudine*. *Dal.* 214, 215. *Cro.* 169. b. 163. b. *Lam.* 153.

If error or insufficiency be in the Indictment taken before Justices of Peace, and restitution awarded, any two Justices of those that were present at the taking thereof may at another Sessions, or without Sessions grant a *Supersedeas*, if the Sheriff have not made restitution before. *Dal.* 214 *Cro.* 162. a.

If restitution be made by Justices upon an insufficient Indictment, and it be removed into the Kings Bench, the Court will restore the party put out by the Justice of Peace. *Dal.* 215. *Cro.* 168. a.

Causes to stay Restitution.

1. No restitution upon an Indictment to be made, if the party indicted hath had the occupation, or been in quiet possession three years together, next before the day of the indictment found, and his estate not ended, which the party may alledg for stay of restitution, untill it be tryed, if the other will traverse or deny the same. 31 *Eliz. cap.* 11. *Dal.* 219.

2. *Certiorari.*

3. A traverse: *quære Lam.* 158.

4. Insufficiency of the Indictment.

5. Insufficiency of the Jurors not having 40 s. land by the year. *Dal.* 218. *Lam.* 152. *Cro.* 165. b. *Quære.*

Justice of Peace upon Indictment found, may give restitution as formerly to free-holders, to tenants for years by copy of Court, Guardians in Knights-service, tenants by *Elegit*,

gi. Stat. Merchants or Staple. *Da.* 207. 21 *Jac.* cap. 15.

"The diſſeiſee outeth the diſſeiſor by force, "the diſſeiſor ſhall be reſtored. *Lam.* 148. *Dal.* 217.

"Upon traverſe the Juſtice may ſtay reſti- "tution. *Dal. ibid.*

"The diſſeiſee entreth peaceably, and keep- "eth out the diſſeiſor by force; the diſſeiſor "ſhall not be reſtored, becauſe the diſſeiſor "had the younger title. But the diſſeiſee ſhall "be impriſoned and fined, becauſe he held "with force. *Cro.* 162. b. & 164. b. *Dal.* 217.

"The diſſeiſee entreth quietly upon the "diſſeiſor, and ſo abide together divers "dayes, and then the diſſeiſee putteth out "the diſſeiſor by force, the diſſeiſor ſhall not "be reſtored. *Dal.* 217. *Cro.* 163. a. b.

"Wife, children, and ſervants do preſerve a "poſſeſſion, but cattel on the ground do not. *Dal. ibid. Cro.* 164. b.

"Two are in poſſeſſion by ſeveral titles "in one houſe, the law judgeth him in poſ- "ſeſſion who hath the beſt right to the poſ- "ſeſſion: As A. enters wrongfully upon B. "and both do continue in the houſe; after- "wards B. puts out A. with force; A. "ſhall not be reſtored, for A. never gained "poſſeſſion by his entry. *Dal.* 217. *Cr.* 163. b.

"Two are joynt-tenants or tenants in com- "mon, whereof one forcibly putteth the other "out of poſſeſſion: *Quære* what a Juſtice "of Peace may do therein, for that his entry

"and

" and poſſeſſion is lawful. *Dal.* 217. *Pat regis* 39.

Reſtitution of ſtollen Goods.

He that hath goods ſtoln, if the felon be thereof indicted and arraigned, and found guilty thereof, or otherwiſe attainted by reaſon of evidence given by the party robbed, or the owner of the goods, or other by their procurement, then the goods ſhall be reſtored though they never made freſh ſuit. *Dal.* 306. *Cr.* 191. a. *Lam.* 586.

And the Juſtices have power to award writ of reſtitution. 21 *H.* 8. *c.* 11. *Lam.* 586. *Cro.* 191. a. *Br. Reſtitution* 22. *Dal.* 306.

Executors ſhall have reſtitution after attainder or conviction upon evidence by their means given. *Dal.* 306.

Three are robbed, reſtitution ſhall be only to ſuch for whoſe goods the felon was indicted. *Dal.* 306. *Cro.* 191. a.

A felon ſtealeth from ſeveral men, is attainted only at the ſuit of one; the King ſhall have the goods of thoſe at whoſe ſuit he was not attainted. *Dal.* 306.

There be divers thieves, and onely one principal is attainted, the robbed ſhall have reſtitution. *Dal.* 307.

If the felon ſold the ſtoln goods in market overt, or in a fair, no reſtitution, except he that bought them were privy to the felony, *ibid. Cro.* 191. a.

No reſtitution of ſtoln goods, if he know not the felon. *Dal.* 307.

No reſtitution, if the felon leaveth the Goods and eſcapeth, and the Lord of the Mannor ſeiſeth them, *Dal.* 307.

If the felon had not his goods in his poſſeſſion when he fled, but left them elſewhere, they are not waived, but the owner may take them whereſoever he findeth them, *Co.* 5. 109. *Dal.* 307.

"A man had his horſe ſtoln, and ſo he "publiſhed it, but knew not who ſtole it, ſo "that he could not indict him, &c. It ſeem-"eth that he ſhall not have his horſe again, "for it was his folly to publiſh that it was "ſtoln, for he might have demanded it as "loſt. And when he knew who took his horſe, "he might afterwards indict him, *Cro.* 191. b.

Return.

Recognizance taken by the Juſt. of Peace *tranſeat*, ought to be returned at the next Q. Seſſions, *Lam.* 109. *Dal.* 173. *Cro.* 139. a. *Supplicavit* is to be returned into the Court whence it came, *Lam.* 107. *Dal.* 177.

Return of a Recognizance upon a *Supplicavit*, is not of neceſſity till *Certiorari*, *Lam.* 109.

Return of Jurors, *vide* Jurors.

Vide Recognizance, & Releaſe, & Certificate.

Revenue of the King, call'd *Hearth-Money.*

The Juſtices of the Peace have ſeveral Powers given them in relation to raiſing of

that duty, by the Act of 14 *Car.* 2. *cap.* 12. 15 *Car.* 2. *ca.* 11. & 16 [illegible]. 2. *ca.* 3.

Riots.

Riot is where three or more persons be disorderly assembled to commit with force any unlawful act, and do accordingly execute or attempt the same, *Lam.* 176. *Cro.* 61. 2. *Dal.* 221.

'. Three or more enter into land with force, &c. where their entry is lawful, it is it a riot, *Dal.* 226. *Cro.* 64. a. *nu.* 49.

What Assemblies shall not be said a Riot.

1. Sheriff or Bailiff levy people to serve the Kings Writs, *Lam.* 178. *Dal.* 223.

2. Constable gathereth assistance of men with weapons to part an affray, *Lam.* 178.

3. A man threatned to be beaten in his house, assembleth company with force, otherwise of a threatning to be beat as he goeth to market, *Lam.* 179. *Dal.* 224. *Cro.* 64. 2. *nu.* 42.

4. Many assemble together, and they know not to what end, *Lam.* 179. *Cro.* 61. b. *nu.* 7. *Dal.* 222.

5. Many assemble at a Church-ale, or at a Christmas dinner, and they suddenly fall out and fight, *Lam.* 179. *Dalt.* maketh question 223.

6. A number of women and children under the age of discretion flock together, [illegible] the

their own cauſe, unleſs moved by a man of diſcretion to do ſome unlawful act, *Lamb.* 180 *Dal.* 226.

7. To gather meet company to carry away a piece of timber which will not be moved without a good many, whereto I pretend right, though in law it be anothers, *Lam.* 178. yet if he uſe threatning words, as to ſay he will have it in ſpight of the other, or though he die for it, his doing may then become a riot, *Dal.* 225. *Lam. ibid.*

8. To meet to drink at an ale-houſe, to play at foot-ball, bucklers, bear or bull-baiting, dancing, bowls, cards or dice, or ſuch like diſports, *Dal.* 223. *Lam.* 178. *Cro.* 61. b. *nu.* 7.

9. To uſe harneſs on Midſummer-day at night in *London*, or on May-day in the Country, *Lamb.* 178. *Cro* 64. a. *nu.* 43. *Dal.* 223.

The maſter intending a riot, taketh with him his ordinary ſervants, who know not his intent, it is no riot in the ſervants, *Lam.* 179. *Cro.* 61. b. 62. a. *nu.* 13. *Dal.* 222.

A Jury falleth out and fighteth, it is no riot, *Dal.* 222. *Lam.* 180.

If any aſſemble for any diſports, as aforeſaid, with intent to break the peace, and make an affray, or do other outrage, it ſeemeth to be a riot in ſo many as come with ſuch intent, *Dal.* 223.

Quere if falling out ſuddenly at ſuch a meeting, and then falling to take parts, be a riot, *Dal.* 223, 224. But if by agreement they meet again and fight, it is a riot, *ibid.*

Vide Dal. 224. *Cro.* 61. b. *nu.* 12.

It can be no riot, except there be an intent precedent to ſome unlawful act with force, *Dal.* 222. *Cro.* 62. a. *nu.* 13.

Yet if a man go to Seſſions or market with his ſervants in harneſs, though there be no intent to commit a riot, yet the manner maketh a riot, *Cro.* 61. a. *Vide* 2 *E.* 3. *cap.* 3. *Dal.* 225.

What one Juſtice of Peace is to do in caſe of Riots.

He may prevent a riot before it be done or ſtay it in the doing, and in the doing may take and impriſon the rioters, and bind them to their good behaviour, *Dalt.* 109. *Lam.* 181.

A riot being done, Juſtices of Peace can neither record the riot, nor make enquiry, nor aſſeſs the fine, nor award proceſs, nor meddle with it, but only as a treſpaſs againſt the peace, or upon the ſtat. of *Northampton* of forcible entry, *Dal.* 110. *Lamb.* 181.

Juſtices of Peace ſitting in a judicial place, and ſeeing a riot, may command them to be arreſted, and record it, and it concludeth the offenders, *Dal.* 110. *Cro.* 65. *nu.* 54. *Lam.* 385.

But a Juſtice of Peace in another place ſeeing a riot, and recording it, the parties may traverſe it, *ibid. Cro.* 65. a. *nu.* 53. *Lam.* 386.

Every Juſtice of Peace being of and in the County, having notice of any riot, ought

have a care to execute the ſtature 13 *H.*4.*c.*7. viz, that the rioters be arreſted, &c. and removed, otherwiſe the next Juſtices forfeit an hundred pound a piece, and every other Juſtice in whom there ſhall be default, fineable in the Star-Chamber, *Dal.*100. *Cro.*124. 1. *Bu.* 22.

One Juſtice of Peace may arreſt rioters, enforce them to find Sureties for the peace or good behaviour, or in default, commit them to priſon, *Dal.*112. *Cro.*157.b. *Lamb.* 181.

A Juſtice of Peace not finding the rioters come to the place, may leave his ſervants to reſtrain the rioters when they come, or elſe arreſt them if they offer to break the peace, *Dal.*110. *Lam.* 181. *Br. Peace* 7.

If the Juſtice of Peace be ſick, he may ſend his ſervant to repreſs a riot, or to arreſt ſuch offenders, and bring them before him to find ſureties for the peace, and his command by word is ſufficient, *Dal.* 110. *Cro.* 64.2.*nu.*45. & 148. b.

One Juſtice of Peace may caſe all ſtatutes for ſuppreſſing of riots to be put in execution, *Dal.* 111.

If the riot be notorious, it is not ſafe to ſtay complaint or information, *Dal* 111.

What two Juſtices of Peace may do in a Riot.

They ought to ſend for the Sheriff or Under-Sheriff, if none of them come, *Dal.*112. *Lam.*327.

If one or two next Juſtices do come, and not the Sheriff or Under-Sheriff, ſuch as come ſhall be excuſed of their fine of 100 pound, *Dal.* 111. *Lam.* 327. *Cro.* 63. b. *nu.* 35.

If one Juſtice of Peace in the County ſhall execute the ſtatute of 13 *H.* 4. *c.* 7. it ſhall excuſe the next Juſtices, *Dal.*112, *Lam.*326, 327.

Two Juſtices of Peace preſent without the Sheriff are fineable, if they do not all which by the ſtatute of 13 *H.* 4. *c.* 7. ought to be done, *Dal.*112. *Lam.*327.

"If two Juſtices of Peace (without the "Sheriff or Under-Sheriff) ſee perſons com-"mitting a Riot, they may cauſe them to be "arreſted, and record it, *Lam.*319. *Quære.*

The particulars which the two next Juſtices of Peace with the Sheriff or Under-Sheriff muſt do upon the ſtatute of 13 *H.* 4. *c.*7. *Dal.* 113.

1. They muſt go to the place where the riot is, *Dal.*113.

2. They ſhall take the power of the County (*viz.*) all above 15 years of age, under the degree of Barons, upon pain of impriſonment, fine and ranſome, *Dal.* 114. *Cro.* 157. b. *Lam.*314 315.

It is not good to raiſe the power of the County without certain information and know-ledge,

knowledge, yet they may do it upon information, (though it be false,) and be excused, or without information, if when they come they find one, *Dal.* 114. *Lamb.* 315, 316. *Cro.* 64. b. *nu.* 49.

3. They shall arrest all such offenders, or cause them to be arrested, and remove the force, commit to prison the rioters, and take away their weapons, *Dal.* 114. *Lam.* 316, 317.

And all such as come into the company, if they be present, shall be arrested, imprisoned, and fined, as it seemeth, *Dal.* 115.

Such as they meet coming from the place riotously arraied, they may arrest and imprison, but cannot record any riot done by them, but after enquiry may fine them, *Dal.* 114. *Lam.* 316. *Cro.* 63. a. *nu.* 32.

The Justices see the riot committed, and the rioters escape; they must record it, and cannot arrest them but upon fresh suit, which record must be sent into the Kings Bench, that process may come from thence, *Dal.* 115. *Lam.* 318.

The Justices may grant a warrant for such as they saw escaping, to be bound to the good behaviour, *Dal.* 115. *Cro.* 196. a. *nu.* 27.

And so they may do upon information, but it is best to do it upon enquiry, and so to fine them, *Dal.* 115.

In execution of the said arrest of rioters, the Justices may justifie the beating, wounding, or killing of any the rioters which resist

er will not yield, *Dal.* 115. *Lam.* 316. *Cro.* 62. b. *nu.* 20. & 158. b.

4. After arrest, the Justices, Sheriff, or Under-Sheriff shall record the riot in writing, (*viz.*) all that shall be done in their presence against law, which ought to be formal and certain, as time, place, number, weapons, manner, &c. *Dal.* 119. *Cro.* 63. a. *nu.* 31. *Lam.* 316, 317.

The form of the record, vide Da. 401. *La.* 290.

If in going to see a riot, another riot happen in their presence, they may record it, arrest and imprison the offenders, *Dal.* 115. *Lam.* 318.

If the rioters make a riot upon the Justices, they may record it also, *Dal.* 115.

Justices record a riot, and upon examination it appears no riot, or saw it not, or there was no riot, yet the parties are concluded, *Dal.* 116. *Cro.* 63. a. *nu.* 33, 65. a. *nu.* 56, 130. a. *Lam.* 317.

5. The Justices are presently to commit rioters to the Gaol, and the power of the County ought to be aiding to the Sheriff or Under-Sheriff, *Dal.* 116, 117.

None may commit the rioters, but the Justices who had the view, *Dal.* 116.

If the Justices and Sheriff, or Under-Sheriff commit to prison the offenders, and do not record the riot, every one of them loseth 100 pound, or do record the riot, and do not commit the offenders, *Dal.* 117. *Cro.* 62. b. *nu.* 10.

6. The said Justices and none other shall assess

assess the fine upon the offenders, which by the statute of 1 H. 5. c. 8. ought to be of good value, that thereout the charges of the Justices and other officers may be born, yet must it be reasonable and just, *Dal.* 116. *Lam.* 317. *Cro.* 161. a. *n.* 45.

The fines must be imposed upon every offender severally, *Dal.* 117. *Co. lib.* 11. 43, 44.

The fine must be estreated into the Exchequer, *Dal.* 117. and then to deliver the offender as it seemeth, *ibid.*

The Justices, as it seemeth, may out of the fines pay the charges of the said Justices, and of the Jury who made the enquiry, for their diet, and the Sheriffs fees; and the Justices Clerk who maketh up the record, may have his fees out of that mony, or rather may take of every offender 12 pence when they pay their fines, *Dal.* 119.

Or the Justices may record the riot, commit the offender, and after certifie the record to the Assizes, Sessions, or Kings Bench, *Dal.* 117.

The record may be delivered at the Sessions to the Clerk of the Peace, together with the residue of the mony remaining of the fine, *Dal.* 119.

Where Justices of P. are remiss in punishing the rioters, the Lords in the Star-chamber may and do often assess greater fines for the same riot, *Dal.* 120. *Cro.* 63. a. *n.* 30.

7. If the riot was not committed in the presence of the Justices, or the rioters gone before their coming, two Justices at least

within one month next after muſt enquire thereof by a Jury returned by the Sheriff, and record the riot being found, which is to remain with one of the ſaid Juſtices, *Dal.* 117. *Lam.* 321.

The form of ſuch enquiry, vide Dal. 402. *Lam.* 329.

Enquiry ſhall not be, unleſs the rioters be gone, *Dal.* 117.

It is not neceſſary that one of the Juſtices of Peace be of the Quorum, *Dal.* 118. *Cro.* 62. b. *nu.* 25.

The enquiry may be made at any time after the moneth; but if it be not within the moneth, the Juſtices are in danger to loſe 100 pounds: yet if the Jury be charged within the moneth and have day after to give up the verdict, the ſtatute is not broken, *Dal.* 118. *Lam.* 322.

At the enquiry, the Sheriff or Under-Sheriff muſt be preſent, but then as Miniſters only, *Dal* 118. *Lam.* 321.

The Juſtices aſſemble to enquire within the month, the parties agree, and the Juſtices diſmiſs thereupon the Jury; the Juſtices ſhall be fined, though none will ſolicite the Inqueſt, or give evidence to the Jury; for the Juſtices ought to proceed *ex officio*, ſeeing ſome of the Jury may have knowledge of the riot, and they ought to make proclamation if any will gave evidence, *Dal.* 118. *Lam.* 322.

If at the parties requeſt the Juſtices diſmiſs the Jury without enquiry, they are fineable in the Star-Chamber to the King, *Dal.* 118. *P. C.* 291.

The

The Justices may bind to the good behaviour the parties complaining of the riot, who caused them to meet, and will not prosecute for the King, but have agreed it, *Dalt.* 118.

Though the Justices go not to see the riot, yet they may enquire within a month after, *Lam.* 321.

8. After enquiry had, and the riot found, the Justices have power to hear and determine the same, (*viz.*) First to make out process against the offenders under their own seal. Secondly, to assess the fine. Thirdly, to commit till they have paid the fine. Fourthly, to deliver them after payment of their fine, or sureties taken by recognizance, or otherwise they may receive their traverse, if the matter will serve, and dismiss them, *Dal.* 119. *Lam.* 323. *Br. Imprif.* 100.

But the Justices should send such Indictment or inquisition to the next Quarter Sessions, or into the Kings Bench together, with the said traverse, there to be tried, *P. K.* 30. *Dal.* 119.

9. If the riot upon enquiry cannot be found, the Justices and Sheriff must certifie into the Star-Chamber, or Councel-Board, or Kings Bench, the whole fact and circumstance, with the names of the offenders *sub pœna*, *Dal.* 120. *Lam.* 323, 324. *Præmunire Br.* 1.

The Certificate must be made within a month after the enquiry, or else it is of no force, *Dal.* 121. *Lam.* 334.

Though

Though two Justices with the Sheriff see the riot, yet two other Justices may make the enquiry, and they all together, or the first two, or last two, with the Sheriff or Under-Sheriff, may make the certificate, *Dal.* 121. *Lam.* 325.

Where the several Certificates be made, or certificate and enquiry do disagree, the best for the King shall be preferred, *Dal.* 121. *Lam.* 325.

If the Jury find but some guilty, the Justices may certifie the rest, *Dal.* 121. *Lam.* 325.

Any material thing left out in the inquisition, may be supplied in the certificate, *Dal.* 121.

Quære if after enquiry, and before certificate the Sheriff die, or one of the Justices be put out of Commission, whether a certificate can be made, *Dal.* 121. *Vide Lam.* 326.

Upon the certificate of two Justices and the Sheriff, the Lord Chancellour may grant a *Capias* to attach the offenders, *Dal.* 121. *Lam.* 313.

Upon default of the Justices and Sheriff in not executing the statute 13 *H.* 4. *c.* 7. the party grieved may have a Commission out of the Chancery, to enquire of the riot, as also of the Justices and Sheriffs default, *Dalton* 121.

" Also the Lord Chancellour may send his " writ to the Justices and Sheriff to execute " the statute of 13 *H.* 4. *c.* 7. *Dal.* 121.

" The Justices and other officers shall do " their offices at the Kings charge, in going, carrying

"carrying and returning, in the doing of their "ſaid offices, by payment thereof to be made "by the Sheriff for the time being, by In- "denture betwixt him and the ſaid Juſtices "and other officers aforeſaid to be made of "the payment thereof, whereof the Sheriff "upon his account in the Exchequer ſhall be "allowed. 2 *H.* 5. *c.* 8.

"The Sheriff is to return 24. whereof eve- "ry one hath lands and tenements within the "ſame Shire of 20 s. *per ann.* of charter lands, "or 26 s. 8 d. of copyhold, or of both *ultra* "*repriſas*; and muſt return for iſſues upon "every one at the firſt day 20 s. at the ſecond "40 s. if they do not appear and be ſworn "the firſt day. And the Sheriff or Under-ſhe- "riff not returning perſons ſufficient, loſeth "for every one 20 l. to the King. 19 *H.* 7. *ca.* 13.

"If the riot, rout, or unlawful aſſembly "be not found by the Jury by reaſon of any "maintenance or embracery of the Juries, "the Juſtice, Sheriff, or under-ſheriff, (beſides "ſuch certificate to be made by 13 *H.* 4.) "ſhall, in the ſame certificate, certify the "names of the maintainers or embracers, "upon pain of every Juſtice, Sheriff, or "Under-ſheriff 20 l. (if they have not rea- "ſonable excuſe) which certificate ſhall be "of force, as if the matter therein found "were found by the verdict of twelve men. "And every maintainer and embracer forfei- "teth 20 l. and to be committed to ward, to "remain during the diſcretion of the Juſtices. 19 *H.* 7. *c.* 13.

"Indict-

" Indictment of a riot is not good unless it " say *contra formam statuti inde editi & provisi.* Cro. 102. a nu. 19.

Rivers.

Every Justice of Peace is a conservator of rivers within his county, and may survey the wears in rivers that they be of reasonable wideness. *Lam.* 189.

Robbery.

Robbery is a violent taking away of any goods from any mans person, with intent to steal them, and putting him in fear thereby, though the thing taken be but to the value of an half-penny. *Cro.* 33. b. *nu.* 1. *Lam.* 267. *Dal.* 260.

But if a felon take money from me in the high-way, and shall not put me in fear, it is not robbery. *Dal.* 260. *Cro.* 34 b. *nu.* 12. *Lam.* 266.

If a thief take nothing from my person, but assaulteth me, whereby he getteth any thing from me, it is robbery. *Dal.* 260. As,

1. I cast my purse on the ground, and he taketh it away. *Lam.* 268. *Dal.* 261.

2. After assault he prayeth me to give him a penny, and I do so. *Dal.* 261.

3. If upon assault I deliver my purse. *Dal.* 261. *Cro.* 34. b. *nu.* 10. *Lam.* 267, 268.

4. If flying from a thief, I cast my purse into a bush, and he doth afterwards take it away. *Dal.* 261. *Cro.* 35. a, *nu.* 10. *Lam.* 263.

5. If

5. If upon assault I flie away, and my hat fall, and the thief carry it away. *Cro.* 35. a. *nu.* 18. *Dal.* 261.

6. If a thief bid me deliver my purse, (without any force used) and I deliver it, and he finding but 2 s in it, delivers it again. *Cro.* 34 b. *nu* 10. *Dal.* 261.

7. If by threats he compel me to swear to bring him money, and afterward I bring him the money accordingly. *D. l. ibid. Lam.* 268.

In some cases it is robbery, though the thief neither take it from my person, nor assault me.

As, 1. A thief taketh my goods openly in my presence against my will, the fear is the like as if it had been from my person. *Cro.* 34 a. *nu.* 5. *Lam.* 269. *Dal.* 261.

2. To take a horse or a beast out of my pasture, I looking on, if the felon put me in fear. *Dal. ibid. Cro.* 34 b. *nu* 5.

3. To make it robbery, the person must be put in fear. *Cro.* 34 b. *nu.* 12. *Dal.* 261.

4. Two come to rob me, and one acteth it, being out of the sight of the other, who after returneth to him; it is robbery in both, *Cro.* 34. a. *nu.* 10. *Lam.* 270. 28 *El. Pudseyes case. Dal.* 262.

To assault one to rob him without taking any thing, is not robbery. *Cro.* 34. a. *nu.* 9. *D. l.* 261.

After a robbery committed, the Hundred must answer the loss, if the robbers be not taken within 40 dayes: if it be done in the division of two Hundreds, both Hundreds and the

the franchiſes within them muſt be anſwerable, and the Hundred wherein defect of freſh ſuit is, the one moyety. *Dal.* 131. 27 *Eliz. c.* 13.

No perſon robbed ſhall bring any action upon the Statute of Hue and Cry, except he be firſt examined within 20 dayes next before the action brought, upon his corporal oath before ſome one Juſtice of Peace of the County where the robbery was committed, whether he doth know any of them that did the robbery; upon which examination, if he confeſs he knoweth any of them, then ſhall he before ſuch action brought, enter into recognizance before the ſaid Juſtice, effectually to proſecute ſuch perſons by Indictment or otherwiſe according to the due courſe of the laws of this Realm. 27 *El. c.* 13. *Law.* 202. *Dal. ibid.*

After a robbery committed, the robbed ſhall not recover againſt the Hundred, except 1. with all convenient ſpeed he give notice of the robbery to ſome inhabitant near to the place where the robbery was committed.

2. He commence his action within a year and a day next after ſuch robbery committed.

3. He be examined *ut ſupra*, before a Juſt. of Peace. *Dal.* 131.

Any two Juſtices of Peace in the Hundred, one being of the *Quorum*, may aſſeſs all towns and pariſhes in the ſaid Hundred and "Liberties therein, upon recovery and execu-"tion had againſt any of the Hundred, to-

"wards

wards an equal contribution; which money the Conſtable muſt deliver to the ſame Juſtices within ten dayes after collection, and they upon requeſt, to thoſe to whoſe uſe it was collected. *Dal.* 132. *Cro.* 197. 2.

And the Hundred ſhall be aſſeſſed in like ſort in default of purſuit of freſh Hue and Cry. *Dal. ibid.*

Robbery in a houſe doth not charge the Hundred, whether it be done in the day or in the night, *ibid.*

The Hundred is diſcharged upon taking of any of the offenders by purſuit. *Dal.* 133. ſo if the party robbed take any of the offenders after Hue and Cry made. *Dal. ibid.*

Robbing of an Houſe.

1. Robbing a houſe or any out-houſe, as a barn or ſtable in the day, to the value of five ſhillings.

2. Robbing a houſe by day or by night, any perſon being therein, and thereby put in fear.

3. Robbing any perſon in any part of his dwelling houſe, the owner or dweller, wife, children, or ſervants being in any place within the precinct of the ſame, ſleeping or waking.

4. Robbing any Booth or tent in fair or market, the owner, his wife, children or ſervants being in the ſame, ſleeping or waking.

All theſe are as penal as Burglary. D l. 287. *Lam.* 265. 39 *Eliz. cap.* 15. 21 *H.* 8. *cap.* 1. 3 *E.* 6. *c.* 9.

Rogues.

Rogues.

All persons hereunder mentioned, being above the age of 7 years, may be punished as rogues. *Dal.*123. 39 *El.c.*4.

1. All going about begging upon any pretence or colour, though licensed by any subject, except in some particular cases after mentioned. *Dal.ibid. Lam.*442.

2. All going about the country using any subtile craft or unlawful games, as fortune-tellers, juglers. *Dal.ibid.*

3. All proctors, patent-gatherers, or collectors for prisons and hospitals. *La* 442. *Dal.ib.*

4. All fencers, bear-wards, common-players of interludes, and minstrels wandring abroad. *Dal.ibid. Lam.*443. 1 *Jac.c.*7.

5. All pedlers, petty-chapmen, tinkers, and glass-men wandring abroad. 1 Jac.c.7. *Dal. ibid. Lam.*443. 21 Jac.c.28.

6. All wandring labourers able in body, refusing to work for reasonable wages, having nothing but labour to maintain themselves. *Dal.*124. *Lam.*443.

But such as are of any parish, able to work, and do not wander, but refuse to work for the usual wages taxed in those parts, are to be sent to the house of correction. *Dal.ibid.*

7. Poor of the Parish begging otherwise then is appointed them, or begging by highwayes, *ibid.* are to be sent to the house of correction.

8. All pretending to be Ægyptians, not being felons. *Dal.ibid. Lam.*443.

9. Soldiers

9. Soldiers or marriners that beg, except ſoldiers or marriners having a teſtimonial from a Juſtice of Peace near the place of their landing, with the place of their dwelling or birth to which they are to paſs, and a convenient time limited for their travel, and purſuing the ſaid licence 39 *Eliz. c.* 4. or do counterfeit any certificate from their General, Governor, Captain, Lieutenant, Marſhal, Deputy, or Admiral. *Dal.* 124.

10 Diſeaſed perſons travelling to the Bathes and licenſed, if they beg, or not licenſed by two Juſtices, or not returning as they are limited. *Dal.* 124. *Lam.* 443.

11. A rogue once whipped, not performing the order appointed by his teſtimonial. *Dal.* 124.

12. A rogue going with a general paſſport, not directed from pariſh to pariſh. *Dal. ibid.*

So a rogue carrying his own paſſport without a guide. *Dal.* 124.

13. Servant departing out of ſervice without teſtimonial. 5 *El. c.* 4. or taken with counterfeited teſtimonial. *Dal.* 124.

14. Perſons infected with the plague, or dwelling in infected houſes, going abroad contrary to order. 1 *Jac. c.* 31. *Dal. ibid.*

15. Perſons able to labour and relieve themſelves and families, that run away, or threaten to run away and leave their charge to the pariſh. 7 *Jac. c.* 4. *Dal.* 125. 21 *Jac. c.* 28.

16. Any calling himſelf a ſcholar, that hath gone about begging. *Law.* 443.

17. Any

17. Any pretending loſs by fire or otherwiſe, that wandring beggeth. *Lam.* 443.

18. Any delivered out of gaol, that hath begged for fees. *Lam.* 443.

Any Juſtice of Peace may appoint any perſon to be openly whipped naked, even unto bleeding, that ſhall be taken begging, wandring, or miſordering himſelf, and is declared by the ſtatute 39 *El.* 4. to be a rogue, vagbond, or ſturdy begger, and ſhall cauſe him ſo whipped to be ſent from pariſh to pariſh by the officers of the ſame, the next way to the pariſh where ſuch perſon was born, if it can be known; if not, to the pariſh where ſuch rogue laſt dwelt before the puniſhment by the ſpace of a year, there to labour; or not being known where he was born or dwelt, then to the pariſh through which he laſt paſſed without ſuch puniſhment, to whom the Juſtice ſhall under his hand and ſeal make a teſtimonial witneſſing his puniſhment, day and place thereof, and whither he is limited to travel, and by what time. And in caſe ſuch place of birth and laſt dwelling be not found nor known, then ſuch perſon ſhall, by the officer of ſuch village through which he laſt paſſed without puniſhment, be conveyed to the houſe of correction of the limit, or to the common gaol. 39 *Eliz.* *c.* 4. there to remain in work until ſuch perſon be placed in ſervice for one years continuance, or not being able of body, till ſuch perſon be placed in ſome alms-houſe of that place or county. *Lam.* 204, 205.

" The like may be done by the Conſtable, aſſiſted

assisted with the advice of the Minister, and one other of the Parish. 39 *El. c.* 4.

He is an incorrigible rogue that misreports the place of his birth, and is to be sent to the house of correction in the county to which he is sent; and if there be none there, then to the gaol untill the next Sessions: so if he misreport the place of his last dwelling by the space of a year, if it appear not where he was born. *Lam.* 207. *Rcs.* 1, 2. *Dal.* 128.

Husband and wife having an house rogue about, they must be sent to the town where that house is; and so of an inmate. *Lam.* 207. *Rcs.* 3. *Dal.* 125.

Wife and children under 7 years being vagrant, are to be placed with the husband; if the husband be dead, then where they were born or dwelt last. *Lam. ibid. Rcs.* 4, 9, 10. *Dal.* 125.

Children vagrant above 7 years old must be sent to the place of their birth. *Dal.* 125. *Lam.* 207. *Rcs.* 4.

Vagrant parents with their children under 7 years of age, being once placed at the place of birth of their parents or last dwelling, the parents dying after, or running away, the children once setled must still remain there. *Dal.* 125. *Rcs.* 4. *Lam.* 207.

Wife vagrant is to be sent to her husband though he be but a servant. *Lam.* 208. *Rcs.* 5. *Dal.* 125.

Rogue, whose place of birth or dwelling cannot be known, hath wife, and children under 7 years of age, they must be sent with the

the husband to the place where they were last suffered to pass unpunished, and the children must be relieved by the work of the parents, though the parents be sent to the house of correction. *Lam.* 210. 8. *Resol.* 6.

Rogue sent to a town, and refused by the Church-wardens and Overseers to whom he is to be offered, is a forfeiture of five pound in the refuser. *Lam.* 210. *Resol.* 12, 14. *Dal.* 128.

"Any hindering the execution of the law "of 39 *El.* or any part thereof for the convey- "ing of rogues, forfeiteth five pounds. And "any two Justices may bind such offender to "the good behaviour, and upon confession of "the offender or oath of two, may by warrant "under their hands and seals cause the said "sum of 5 pound to be levied by distress and "sale of the offenders goods. *Dal.* 128. 39 *El.* *cap.* 4.

Rogue sent from the place where he is taken, by a general pasport, without conveying him from parish to parish, is a let in the conveying of rogues, and a forfeiture of 5 pound. *Lam.* 210. *Resol.* 13. *Dal.* 128.

Rogue going with such a pasport, continuing a rogue, is to be punished by whipping, *ibid.*

By parents is to be understood father or grand-father, mother or grand-mother, being able persons. *Lam.* 210. *Resol.* 16.

By children, any child or grand-child, being unable. *Lam.* 210. *Resol.* 15.

Diseased persons living of alms, and travellers

vellers to Bath or Buxton for remedy, are to be licenſed thereto by two Juſt. of Peace, 39 *El. c.* 4 *Lam.* 332. yet may not beg, but muſt be provided of maintenance for their travel. *Dal.* 124.

Forfeiture of offences againſt the ſtatute, 39 *El. c.* 4. upon conviction by confeſſion or by two witneſſes before two Juſtices of Peace, they may cauſe the ſame to be levied by warrant under their hands and ſeals, by diſtreſs and ſale of the offenders goods. 39 *El. c.* 4. *La.* 331. See 1 *Jac. c.* 7. *Dal.* 129.

All queſtions growing upon the ſtatute of rogues, may be heard and determined by two Juſtices of Peace, whereof one of the Quorum. *Dal.* 129. 39 *El. c.* 4.

Conſtable or Tything-man not doing his endeavour to apprehend rogues within their limits, or wilfully ſuffering them to eſcape unpuniſhed, forfeiteth 2 s. for every offence, *Dal.* 128. and 5 pound if they do not convey them away towards their dwelling or place of birth. 39 *Eliz. cap.* 4. *Lam.* 444. 1 *Jac. cap.* 7. *Dal.* 129.

Miniſter of the Pariſh not keeping a regiſter of the teſtimonial of rogues puniſhed in his pariſh, and conveyed thence, loſeth for every default 5 s. 39 *El. c.* 4. *Dal.* 129.

Every one is to carry to the Conſtable ſuch beggers as they ſhall know to come to their doors for alms, or loſe 10 ſhillings. 1 *Jac. c.* 7. *Dal.* 129.

Juſtices of Peace are to meet twice a year at the leaſt, and oftner if occaſion be, in their ſeveral

ſeveral diviſions, for the executing of the ſtatute againſt vagabonds, and four or five dayes before by warrant to command the Conſtables of Hundreds or towns, by aſſiſtance of ſome of every town, to make a general privy ſearch by night for finding and apprehending rogues to be brought before the Juſtices at their meeting by them, and puniſhed, or ſent to the houſe of correction. 7 *Jac. c.* 4. *Dal.* 130. 21 *Jac. c.* 28.

Conſtables at every meeting of the Juſtices of Peace for the execution of the ſtatute of rogues, are to give an account upon oath in writing, and under the hand of the Miniſter of the pariſh, what rogues, &c. they have apprehended both in the ſame ſearch, and alſo between every meeting, and how many have been puniſhed by them, or ſent to the houſe of correction; and in default thereof, be fined under 40 s as by the moſt of the Juſtices ſhall be aſſeſſed. 7 *Jac. c.* 4. *Dal.* 130.

No man is to be put out of the town where he dwels, or ſent to his place of birth or laſt habitation, but only a vagrant rogue. *Dal.* 116. *R ſ.* 9. *Lam.* 209.

So of them whoſe terms of their houſes are expired, and ſervants whoſe times of ſervice are ended; for they muſt provide themſelves houſes anew, if they be not impotent. *Dal.* 126.

Dangerous rogues are to be baniſhed, or condemned to the Gallies by the Juſtices at their Quarter-Seſſions. 39 *El. c.* 4. *Lam.* 427. *Dal.* 287.

Rogue

Rogues by judgment of moſt of the Juſtices of Peace in open Seſſions adjudged incorrigible, ought to be branded on the left ſhoulder with the letter R. and then to be ſent to their dwelling; if they have none, then to their laſt dwelling-place where they dwelt for a year; or if that cannot be known, to their places of birth, 1 *Jac. cap.* 7. If he offend again in begging or wandring, it is felony without clergy, 1 *Jac. c.* 7. *Lam.* 428. *Dal.* 287.

"Souldiers and mariners having a teſtimonial under the hand of the Juſtice next "to his landing-place, of the time and place "of his landing, limiting the place to which "he is to paſs, and the time; if he purſue the "ſaid licenſe, he may ask and take ſuch ne"ceſſary relief as any will give him, 39 *El.* "*c.* 17. *Lam.* 303. *Dal.* 126.

"Two Juſtices of Peace may ſend to the "houſe of correction, as a ſturdy rogue, a per"ſon able to work, threatning to turn away & "leave his family upon the pariſh, being pro"ved by the oath of two before the ſaid Ju"ſtices, unleſs he can put in ſufficient bond "for diſcharge of the pariſh, 7 *Jac. c.* 4. *L.* 331.

"He which runneth away, and leaveth his "charge to the pariſh, is an incorrigible "rogue, 7 *Jac. c.* 4.

Every Juſtice of the Peace may reward ſy perſons that apprehend and bring before em any Rogues, Vagabonds, or ſturdy Begars, by granting an order or warrant under s hand and ſeal to the Conſtable of the riſh which ſuch rogue or vagabond paſſed

through unapprehended, and upon default of payment, to proceed againſt ſuch defaulter according to the ſtatute of 1 *Jac. c.* 7. and to allow out of the ſaid forfeiture 2 s. and allowance for loſs of time, as they ſhall think fit.

And if any perſon ſhall apprehend a rogue, vagabond, or ſturdy beggar, at the confines of any County which paſſed thorough another County apprehended, any Juſtice of Peace of the County thorough which ſuch Rouge, or, &c. paſſed unapprehended (upon certificate under the hand of ſome Juſtice of Peace of the County where ſuch Rogue was apprehended) may grant an order or warrant under his hand and ſeal to the Conſtable to pay ſuch perſons 2 s. and what he thinks for expences and loſs of time; and upon refuſal of payment, to proceed againſt ſuch Conſtable for the forfeiture by the ſtatute 39 *El. c.* 4.

And a Proviſo is alſo impowring the Juſtices of Peace, to tranſport convicted Rogues, Vagabonds, and ſturdy Beggars to Engliſh Plantations beyond the Seas, 14 *Car.* 2. *ca.* 12

Rome, *vide* Pope, *Co.* 11. 36.

Rout.

Rout is where three or more perſons be diſorderly aſſembled to commit any act with force, whether they put in execution their purpoſe or no, if they ſo do go, ride, or move forward after their firſt meeting, *L.* 176. *D.* 22

"A rout is only by ſome opinions, when "three or more do aſſemble for their "common quarrel: As, the inhabitants of

"To

"Town assemble to pull down a house, wall, "pale, ditch, or other inclosure, pretending to "have title of common, or a way there, or to "beat a man that hath done some publick "offence, *Dal.*221, 222.

Sacrilege.

SAcrilege is the felonious taking of goods out of any Church or Chappel, *Lam.*420.

Sacraments.

Three Justices of Peace may take accusation by oath of two witnesses against such as deprave the Sacrament of the Supper, and examine what witnesses were by, and bind them all to give evidence at the day of trial; and they being found guilty, shall be imprisoned and fined, 1 *Ed.*6 *c.*1. *Dal.*134. *Quære Lam.*416, 366.

Three Justices of Peace, one being of the Quorum, may award against one indicted upon the statute of 1 *E.*6 *c.*1. for departing the Sacrament, a *Capias*, *Exigent*, and *Capias utlat.* into any shire, 1 *Ed.*6 *c.*1.

"Justices of Peace in their Q. Sessions may "enquire, hear, and determine of all recusants "and offences, as well for not receiving the "Sacrament according to 3 *Jac. c.*4. as not "repairing to Church. And in their Sessions "(wherein there shall be indictment taken "for not repairing to Church, or not receiving the Sacrament) to make Proclamation to render their bodies to the Sheriff before the next Sessions, and in default, "conviction, 3 *Jac.*c.4. *Lam.*616.

Salmons, *vide* Fish.

Salt-Peter-men.

Salt-Peter-men cannot dig in the mansion-house of any subject without his assent, in regard of the danger that may happen thereby in the night-time to the owner, his family and goods, by thieves and others malefactors, *Co. 11, 82. Dal. 209. Vide* House.

School-master.

To keep or maintain a School-master which resorteth not to Church, or is not allowed by the Bishop or Ordinary of the Dioceſs, the maintainer forfeits ten pounds for each month, and the School-master to be imprisoned for a year without bail, and disabled, 23 *El. cap. 1. Law. 519.*

Any keeping a School, or being a School-master out of the University, except in publick Grammar-school, and except in such Noblemen and Gentlemens houses as are not Recusants, and licensed by the Archbishop or Guardian of the Dioceſs, both keeper and School-master forfeits 40 shil. a day, 1 *Jac. c. 4.*

Seditious Sectaries.

One Justice of Peace may within three months after the conviction of any seditious Sectary or Popish Recusant described in the statute of 35 *El. cap. 1.* require the submission of him to conformity, and in default of such submission, may require him to abjure the Realm; and if he refuse, or after return without licence, it is felony, 35 *El. c. 1. &* *Law. 204.*

Sedi-

Sedicious Sectaries.

The Justices of Peace in open Sessions may hear and determine offences committed within their limits, against the Stat. 13 & 14 Car. 2. cap. 1. concerning persons called Quakers: And any one Justice of the Peace, Mayor, or chief Officer of a Corporation may commit to the Gaol, or bind over persons with sufficient Sureties, in order to their prosecution and conviction upon the Statute.

Sermon, *vide* Preaching.

Servants, *vid.* Labourers and Apprentices.

Serving-men, *vide* Testimonial.

Sessions of the Peace.

The Sessions of the peace is an assembly of any two or more Justices of Peace, one being of the *Quorum*, at a certain day and place within the limits of their Commission, appointed to enquire by a Jury or otherwise to take knowledge, and thereupon to hear and determine according to their power of causes within the Commission and statute referred to their charge, *Lam.* 378.

Sessions held without summons are good, but then none shall lose any thing for default of appearing, *Lam.* 380, 381.

Summons of the Sessions is usually by precept written to the Sheriff, and by him to be returned at the Sessions, *Lam.* 381.

Precept for ſummoning the Seſſions may be made by any two Juſtices of Peace, one being of the *Quorum*, but not the *Cuſtos Rotulorum* alone; and ſummons cannot be diſcharged by *Superſedeas* of all the other Juſtices, but by *Superſedeas* out of the Chancery, *Lam.* 382, 383.

Seſſions held by one Juſt. of P. is not good, although it were ſummoned by two, and ſtyled by their names; but by two ſufficient Juſtices it is good, though it be ſtyled by the name of three, *Lam.* 383.

Quarter Seſſions are to be held four times in the year, (*viz.*) the firſt week after S. *Michael*, the Epiphany, the clauſe of *Eaſter*, after the tranſlation of S. *Thomas* the Martyr, which is 7 *July*, 2 *H.* 5. *c.* 4. *Lam.* 597.

"The Eaſter Seſſ. by 33 *H.* 8. *c.* 10. are to "be holden the Tueſday next after Low-"Sunday, *Lam.* 605.

"Juſtices of Peace ſhall hold their Seſſi-"ons four times in the year, *viz.* Once "within the Octaves of the Epiphany: the "ſecond, in the ſecond week of Lent: the "third, between the Feaſts of Pentecoſt and "S. John Baptiſt: the fourth, within the "Octaves of S. Michael, 36 *Ed.* 3. *c.* 12. *Cro.* "123 b. *nu.* 16.

"Where *Crompton* noted, that by 12 *R.* 2. "*c.* 10. it is ordained, that the Qu. Seſſions "ſhould be held every quarter of a year at "the leaſt, and three daies if need be; by "which it appeareth that the uſual day is "not of neceſſity, ſo it be kept within a "quarter of a year, *Cro. ibid.*

By

"By the ſtat. 2 *H.5.c.*4. Juſtices of Peace "ſhall keep their Seſſions four times in the "the year, *viz.* in the firſt week after S. Micha- "el, in the firſt week after the Epiphany, in "the firſt week *poſt claus. Paſchæ*, and in the "firſt week after the Tranſlation of S. Tho- "mas the Martyr, which is the 7 of *July*, "and ofner if need be, *Cro.*123. b.*nn.* 17.

"*Cro.*123.b.*nn.*18. ſaith, that upon the ſtat. "of 17 *R.*2. *c.*9. (which permitteth to keep "Seſſ. ſo oft as is expedient) in *Kent* they "keep their Seſſ. at other times then the times "appointed by 2 *H.*5.*c.*4. and that it is good.

The place where Seſſions are to be holden is arbitrable, and therefore though by ſummons they be to be kept in one place, yet they may be kept in another; but then there can be no amerciament for default of appearance, *Lam.*383,384.

Two Seſſions at one time for one County lawfully ſummoned at two places, both are good, and appearance at one ſhall excuſe default of appearance at the other, and preſentments taken before either of them ſhall be good, *Lam.*384.

At a general Seſſions all matters enquirable by Juſtices of Peace, either by their Commiſſion or by ſtatute, ought to be given in charge, otherwiſe at a ſpecial Seſſions, *Lam.* 613. and may be held three daies, 606. 12 *R.* 2. *c.*10.

Two ſorts of men owe their ordinary attendance at the Qu. Seſſions, (*viz.*) officers and miniſters of the Court, and Jurors of the County, *Lam.*386.

Officers are the *Cuſtos Rotulorum*, where he ought to attend by himſelf or his deputy, *Lam.* 387.

The Clark of the Peace, *Lam.* 393.

The Sheriff, *Lam.* 395.

The Coroners, *Lam.* 394.

" Miniſters, as Bailifts of Franchiſes, Conſtables of Hundreds, the Ordinary, *Lamb.* " 395. Jurors for enquiry and trial, *Lam.* 396.

The Juſt. of P. if need require, may keep a ſpecial Seſſions by virtue of their commiſſion, or by the ſtatute 2 *H.* 5. *c.* 4. *Lam.* 623.

Summons of a ſpecial Seſſions is for the moſt part for ſome ſpecial enquiry, and not to the general ſervice of the commiſſion, *Lam.* 623.

All matters within the commiſſion or ſtatute may at a ſpecial Seſſions of the Peace be given in charge, yet they are at liberty to give in charge either all or any of them, *Lam.* 623, 624.

If two Juſtices of the Peace, one being of the Quorum, make a precept to the Sheriff for the holding a Seſſions at ſuch a place and day, and to return a Jury before them, other Juſtices cannot by their *Superſedeas* to the Sheriff inhibit him, *Cro.* 122. *b.* but the King by his writ of *Superſedeas* may diſcharge it, *ibid.*

A man is bound to appear before a Juſtice of Peace within forty daies after, in the mean time a general Seſſions is kept, he ought to appear before the Juſtices at the Seſſions, *Cro.* 123. *a. pl.* 8.

A Juſtice commands one on pain of 10 pound by his precept to appear at the next Seſſions, and he doth not, no *Scire facias* ſhall go againſt him more then upon a *Sub pœna*, but it ſeemeth he may be attached upon a contempt, *Cro.* 123. a. *nu.* 9.

"All that come to the Seſſions for pub-"lick ſervice, or upon compulſion, upon "complaint and examination of the matter "upon oath ſhall be freed from any arreſt "upon Original proceſs, *La.* 402. *Cro.* 190. b.

"Juſtice of Peace may record a force, if "he be diſturbed in coming to the Seſſions, "ſo that he dare not go the Seſſions, and "they ſhall be convicted by that record, *Cro.* "190. b.

Sewers.

Commiſſion of Sewers being expired, ſix Juſtices of Peace, two being of the Quorum, may for one year after execute the laws of Commiſſioners of Sewers, unleſs a new be publiſhed, 13 *El. c.* 9.

Sheep.

To tranſport ſheep beyond the ſeas without licence, or to procure the ſame, is felony for the ſecond offence, 23 *H.* 8. *c.* 16. 8 *Eliz. c.* 3. *Lam.* 227, 425.

Any bringing, ſending, or receiving into any bottome any ſheep alive out of the King's dominions, or procuring the ſame, loſeth his goods, is to be impriſoned for a year, and then in open market to loſe his left hand, 8 *Eliz.* c. 3. *Lam.* 456, 457.

Any keeping at one time above 200 sheep of all sorts against the purport of the statute, loseth 3 shil. 4 pence for every sheep above 2000, 28 *H.*8. *c.*13.

Sheriff.

The *Custos Rotulorum*, or eldest of the Quorum in his absence, is to appoint at Michaelmas-Sessions, two Justices of Peace, whereof one of the Quorum, to have the oversight and controlment of the Sheriff, Under-Sheriff, their officers and deputies, and of their Books and amerciaments in their County Courts: and either of these two Justices, or one Justice of the Peace, may examine the Sheriff or Under-Sheriff, and Plaintiff concerning the taking and entring plaints in their Courts and books against the statute, 11 *H.* 7. *c.*15. *Dal.* 136. *Lam.* 201, 295, 600.

The particulars are, *Dal.*137. *Lam.* 431.

1. If any plaints be entred in their books in any mans name, the Plaintiff or sufficient Attorney not being in Court.

2. If the plaintiff find not pledges to pursue his plaint, *viz.* such as are known in that County.

3. If they enter more plaints then one for one tresposs or contract.

4. If they enter more plaints then the plaintiff supposeth he hath cause of action for against the defendant.

If upon examination the Justices find any default, it shall stand for conviction, without further

further enquiry or examination, and they forfeit 40 ſhill. to the King and to the Informer for every default, and the Juſtices muſt certifie the examination to the Exchequer within a quarter of a year, on pain of 40 ſhill. *Dal.* 137.

The like for Bailiffs of Hundreds, in not warning the Defendants to appear, *Dalt. ibid.*

Sheriff ſhall make no eſtreats to levy their Sheriffs amerciaments, untill the two Juſtices have had a view and overſight of the Books, and the ſaid eſtreats ſhall be indented betwixt the ſaid Juſtices and Sheriff, or Underſheriff, under their Seals, *Dal. ibid.*

The ſaid two Juſtices, or one of them may examine the defaults of collectors of Sheriffs amerciaments, whoſe finding of default is a ſufficient conviction and forfeiture of forty ſhillings, the examination to be certified into the Exchequer, *Dal. ibid.*

The ſaid Juſtices, upon information of the party grieved, may make like proceſs as in action of treſpaſs againſt the Sheriff, &c. to appear then to anſwer the ſaid information or ſuggeſtion, *Dal.* 138.

Sheriff ought to be at the Seſſions, to return his precept, and keep the priſoners, *Dalt.* 395.

In theſe caſes following the Sheriff, &c. doth forfeit 40 pounds, and treble damages to the party grieved, 23 Hen. 6. c. 10. Lam. 430, 431.

1. Sheriff that letteth his Bailiwicks or any of his hundreds.

2. Or returneth in any panels any Bailiffs, officers, ſervants, or ſervants ſervants.

3. Or refuſeth to bail thoſe that are bailable, offering ſufficient ſurety.

4. Or taketh any obligation by colour of his office, but only to himſelf, and upon the name of his office, and upon condition only to appear according to the writ or warrant.

5. Or having taken for any arreſt above 20 pence.

6. Or above 4 pence for any obligation, warrant, or precept.

7. "Or he or any other miniſter having "taken any thing for making any return or "panel.

8. Or above four pence for the copy of a panel.

9. Bailiff for taking above four pence for making an arreſt.

10. Gaoler taking above four pence of any committed to his ward upon arreſt or attachment.

11. Sheriff or his miniſters that ſhall levy any of the Kings debts, without ſhewing the party the eſtreats under the Exchequer ſeal, ſhall be fined and pay treble damages to the party. 7 *H.*4 *c.*3. 42 *Ed.*3. *c.*9. *Lamb.* 432.

12 Sheriff or other his miniſter arreſting, impriſoning, ranſoming of, or levying any amerciaments by reaſon of any Indictments or preſentments made in the Sheriffs turn, without proceſs firſt obtained from the Juſtices of Peace, or that hath not brought in ſuch Indictments and preſentments to the Juſtices of the Peace at the next Seſſions, loſeth 10 l. *Lam.*431. 1 *Ed.*4.*c.*2.

Sheriff of any other who may make return of any writ, that returneth any Juror, without true addition of the place of his abode, or within a year next before, or without ſome addition by which the Juror might be well known, loſeth 5 marks to the King, and five marks to the party. 27 *El.c.*7. *Lam.*432.

Sheriff or gaoler denying to receive felons by the delivery of any Conſtable or Townſhip, or having taken any thing for receiving ſuch, is fineable. 4 *E.* 3. *cap.* 10. *Lam.* 434.

Sheriff, Bailiff, or other officer or perſon, refuſing to pay over to the Churchwardens, &c. the moyety of the forfeitures by the ſtatute of 4 *Jac.* againſt uttering of beer or ale to alehouſe-keepers unlicenſed, forfeiteth double value. 4 *Jac.c.*4. *Lam.*434.

Juſtice of Peace being choſen Sheriff, his authority

authority of Justice is suspended during his Sheriffwick; but after another is chosen and sworn, his authority as a Justice of Peace is as it was before without any new oath, except he be left out of the commission. *Dal.* 11, & 12. *Cro* 121. a. *nu.* 13, 14.

Shoes.

Making shoes, pantofles, &c. contrary to the rules prescribed in the statute, loseth 3 s. 4 d. for every pair of shoes, &c. and the value of them. 1 Jac. c. 22. *Lam.* 465.

Shewing of boots, &c. on the Sunday, with intent to sell them, loseth 3 s. 4 d. and the value of them. 1 Jac. c. 22. *Lam.* 466. *vide* Leather.

Shooting.

"Any under the degree of a Lord of the "Parliament shooting within any City or "Town at any fowl or other mark upon any "Church or dove-cote, or any shooting in "any place any hail-shot or more pellets "then one at a time, every time offending "forfeiteth 10 l. and imprisonment for three "moneths. 2 *Ed.* 6. *c.* 14.

Vide Archery, Cross-bowes, Partridges.

Silk, *vide* Apparel.

Sope, *vide* Vessels.

Souldiers,

Souldiers.

Souldier ſerving the King by ſea or land, doth willingly give, purloin, or put away any horſe or harneſs wherewith he was ſet forth, (or being taken from other ſouldiers was appointed to him,) upon complaint thereof to a Juſtice of Peace, he ſhall be committed without bail, till he have made ſatisfaction, unleſs he have been formerly puniſhed by the General or other, or ſhew forth in writing under ſeal the lawful loſs thereof 2 & 3 *Ed.* 6. *c.* 1. *Law.* 194.

Souldiers paſſing out of the Realm to ſerve any forrein Prince, not having before their paſſage taken the oath of allegiance before the officer appointed thereunto, it is felony. 3 *Jac c.* 4. *Dal.* 288.

Souldier being a Gentleman, or of a higher degree, or Captain, or other Officer in Camp, paſſing to ſerve any forreign Prince, &c. before they be bound to the King with two ſureties before the officer appointed, not to be reconciled to the Pope, &c. or to conſent to any conſpiracy againſt the King, but to diſcloſe all conſpiracies upon knowledg thereof, &c. it is felony, *ibid.*

Souldier entred upon Record, and having taken preſs-mony, and that departeth without licence, it is felony. 7 *H.* 7. *c.* 1. 3 *H.* 8. *c.* 5. *Dal.* 288. or if they depart without licence after they have ſerved in the Kings wars. 2 *E.* 6. *c.* 2. *Dal. ibid.* So of marriners and gunners that have taken preſs-mony to ſerve the King

on

on the ſea, and come not unto, or depart from the Captain without licence, it is felony. 5 *El. c.* 5. *Dal.* 288.

In theſe caſes following, by the ſtatute of 39 El. c. 17. *Souldiers and marriners do become felons,* Dal. 288.

Such which ſet not themſelves to ſome lawful courſe of life, but wander up and down idly, not having a lawful teſtimonial (if they come from beyond ſea) from ſome Juſtice of Peace near the place of their landing, expreſſing the place and time of their landing, the place to which they are to paſs, and a time limited for their paſſage; or having ſuch a teſtimonial, if they ſhall exceed the time limited.

To forge or counterfeit ſuch teſtimonial, or to have a forged teſtimonial, knowing that it is forged.

Or being retained in ſervice after his arraignment, &c. if he depart within the year without licence of his maſter.

Poor ſouldier, or marriner, or ſea-faring man ſuffering ſhipwrack, may have a licence from a Juſtice of Peace next to his landing, to paſs to the place of his repair, and may aſk and receive neceſſary relief in his direct paſſage, within the time limited to him, 39 *El. c.* 4 — 39 *El. c.* 17. *Dal.* 126. *Lam.* 303. 21 *Jac. c.* 28.

Every pariſh is to be taxed to the relief of

disabled souldiers, by the greater part of the Justices at their Quarter Sessions next after Easter, so as no Parish be above ten pence, nor under two pence weekly to be paid, so as the total sum in any County where there shall be above fifty parishes, do not exceed six pence every parish. 43 *Eliz. cap.* 3.

The said taxation to be assessed within themselves, and in default thereof by the Church-wardens and petty Constables, or the greater part of them; in default thereof, by the Justices or Justice of Peace dwelling in the same parish, or, if none be there, in the Parish next adjoyning. 43 *El. c.* 3.

In default of payment of the same assess, the Church-wardens and petty-Constables may levy it by distress and sale, &c. and in their default, the aforesaid Justices or Justice of Peace. 43 *El. c.* 3.

The Church-wardens and petty-Constables are to pay over their collections to the High-Constable ten dayes before every Quarter-Sessions, and the High-Constables at every Quarter-Sessions are to pay it over to the Treasurer, *ibid.*

If any of them make default, then the Churchwardens or petty Constables forfeit 10 shillings, and every High-Constable 40 shillings, to be levied by the Treasurer by distress and sale for augmentation of the stock. 43 *El. c.* 3.

Treasurer for maimed Souldiers must be ten pound in lands, or fifteen pound in goods,

in

in the ſubſidy, and continue but for a year, and within ten dayes after Eaſter Seſſions following to give account to his Succeſſor; in default thereof or for other miſdemeanor in his office, to be fined five pound or above by the more part of the Juſtices of Peace 43 *El. cap.* 3.

Souldier or marriner ſick or maimed by ſervice in his Majeſties pay, upon lawful certificate thereof by the general muſter-maſter or receiver of the muſter rolls, Treaſurer, or Controller of the Navy under his hand, is to come to the Treaſurer of the County where he was preſt, or if he were not preſſed, then to the Treaſurer of the County where he was born or laſt dwelt three years, if he be able to travel ſo far, or otherwiſe to the Treaſurer of the County where he landed, by him to be relieved according to his diſcretion till the next Qu. Seſſions, at which time the more part of the Juſtices may according to their diſcretions grant him a penſion during his life, if the ſaid penſion be not duly revoked or altered. 43 *El. c.* 3.

Treaſurers are to make payment quarterly of ſuch penſions as ſhall be granted by the moſt of the Juſtices at the Qu. Seſſions under their hands, and by them to be fined, if they refuſe to pay them. 43 *El. c.* 3.

Penſions of ſouldiers and marriners, not having born offices, are not to be above 10 pound, under the degree of a Lieutenant 15 pound, a Lieutenant 20 pound, 43 *El. cap.* 3. Penſions are revocable or alterable at the diſcretion

ction of the Juſtices in the Quart. Seſſions, 43 *El. c.* 3.

Treaſurer where any maimed ſouldier or marriner ſhall arrive upon certificate, (though not allowed) may give a teſtimonial of his own allowance, and convenient relief to carry him to the next County, leading him to the place where the general muſter-maſter ſhall be: and ſo may the Treaſurer of each county, leading him thither, and from thence to the County where he is to have his penſion. 43 *El. cap.* 3.

Treaſurer is to enter into a book mony received and diſburſed, with the parties names and certificate to whom it was paid. 43 *El. cap.* 3.

Treaſurer not allowing a certificate in the act of 43 *El. c.* 3. expreſſed, muſt endorſe the cauſe thereof on the certificate. 43 *El. c.* 3.

Souldier or marriner counterfeiteth a certificate, or having a penſion beggeth, he ſhall loſe his penſion, and be adjudged a rogue. 43 *El. ap* 3.

Souldier or marriner that cannot be relieved in the County where he was preſſed, by reaſon that the whole taxation is imployed, ſhall be relieved where he was born or dwelt the laſt three years, at his election. 43 *El. c.* 3.

Overplus of the ſtock for maimed ſouldiers is to be imployed by the greater part of the Juſtices at the Qu. Seſſions, to ſuch charitable uſes as are ſet down in the ſtatute for poor, except it be by them reſerved for future penſions. 43 *El. c.* 3.

Star-

Star-chamber.

The experience of the Star-chamber is the best guide and direction for a Justice of Peace, *Lamb.*175.

Stoln goods.

After attainder upon evidence by the owner, the stoln goods are to be restored to the owner by writ of restitution awarded by the Justices before whom the attainder was, 21 *H.* 8. *c.*11. *Lam.*586. *Dal.*306. *Cro.*191.a. *Vide* Restitution of stoln goods.

Stewards of Courts.

Stewards of the Sheriffs turn, Leet, or Pypowders, cannot grant surety of the peace unless it be by prescription, but every of them may commit him to ward that shall make an affray in their presence whilest they be in execution of their office, which the steward in a Court Baron cannot do, *Lam.*14. *Dal.*2. 10 *H.6. c.* 7. *Br. Leet* 36.

Stock of the shire.

The parishioners, and in their default the Churchwardens and Constables are to assess the tax imposed upon the parish by the Justices at Easter Sessions, towards the relief of the prisoners in the Kings Bench, Marshalsey, Hospitals, and other losses by fire, &c. In default of them, any Justice of Peace dwelling in that parish, or (if none dwell there) the next Justice may assess the same; and the same

Justice

Juſtice of Peace, or any other Juſtice of Peace in that limit, in default of the Church-wardens and Conſtables, may levy the ſame by diſtreſs and ſale of the offenders goods, rendring to the party the overplus, and in default of diſtreſs, may commit ſuch perſons without bail till they pay the ſame, 43 *El.* c. 2. *Dal.* 139.

In all taxations, obſerve theſe rules, *Dal. ibid.*

1. The moſt reaſonable taxation of land is by the yearly value, not the quantity.

2. He that occupieth lands in his own hands in ſeveral pariſhes, ſhall be charged in every pariſh proportionably for his land there.

3. The farmer ſhall be rated for the land, and not the leſſor.

4. A man is not to be rated for his farm-rents, for that the occupier of the lands is chargeable for the ſame.

5. By goods in moſt caſes a man may be rated, as well as by lands, but not both by goods and lands.

6. A man ſhall be charged for goods only in that town where the goods be at the time of aſſeſsment: the Conſtable and major part of the Pariſhioners, upon warning given in the Church, may make ſuch taxations by law, *Co.* 5, 67. *Br. Quin.* 4. & 6. *Dal.* 140.

The like may be done by the Church-wardens and the greater part of the Pariſhioners for Church-charges, *Dal. ibid.*

If

If the greater part will not meet, the officers and such as will meet may tax. *Dal. ibid.*

Where a man is charged by goods, they must be *bona notabilia*. *Dal.* 140. *Vide* Taxations.

Subsidy.

Upon proof before two Justices of Peace, that a subsidy-man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Justices. *Lam.* 336. *Dal.* 141.

Suggestion, *vide* Information.

Summons of the Sessions, *Vide* Sessions.

Sunday.

All persons shall diligently and faithfully resort to their Parish Church or Chappel accustomed, or upon reasonable let to some usual place where Common-Prayer shall be used, upon every Sunday and other day ordained and used to be kept holy-day, and then and there to abide orderly and soberly during the time of Common-prayer, preaching, or other service of God, or lose twelve pence for every offence, to be levied by the Churchwardens there, to the use of the poor, by way of distress, 1 *El. cap.* 2. *Dal.* 105. though he be Popish Recusant convict or not convict, *ibid.*

If

If any ſubject do not reſort and repair every Sunday to ſome Church or Chappel, or ſome uſual place appointed for Common-prayer, and there hear Divine Service, according to the ſtatute 1 *El. cap.* 2. it ſhall be lawful for a Juſtice of Peace of that limit, upon proof by confeſſion of the party, or oath of a witneſs, to call the party before him; and if he or they make not a ſufficient excuſe, to the ſatisfaction of the ſaid Juſtice, then to give warrant to the Churchwardens of the ſaid Pariſh under his hand and ſeal to levy twelve pence by diſtreſs to the uſe of the poor for every default, and for want of diſtreſs, to commit the offender to priſon; every offender to be called in queſtion within one month after the offence. 3 *Jac. c.* 4. *Lam.* 418.

None puniſhed according to the branch of the ſtatute of 3. *Jac. cap.* 4. ſhall be puniſhed by 1 *El. c.* 2. for the ſame offence. 3 *Jac. c.* 4.

There ſhall be no meeting, aſſemblies, or concourſe of people for any ſports or paſtime out of their own pariſhes on the Lords day; nor Bear-baiting, Bull-baiting, Interludes, common playes, or other unlawful exerciſes within their own Pariſhes, upon forfeiture of 3 ſhillings 4 pence to the uſe of the poor, upon view of one Juſtice of Peace, confeſſion of the party offending, or oath of one witneſs, to be levied by warrant of the ſaid Juſtice under his hand and ſeal to the Conſtable and Church-wardens; in default of diſtreſs, the offender to ſit in the ſtocks three hours.

hours. The offender to be queſtioned within one month. 1 *Car.c.*1.*Dal.*63.

Carriers, waggoners, wayn-men, drovers, ſhall not travel with horſe, wagons, carts, or cattel upon Sunday, upon pain of twenty ſhillings for every offence. Neither ſhall any Butcher kill or ſell any victual upon Sunday, on pain of 6 ſhillings 8 pence, upon view of one Juſtice of Peace, confeſſion of the party, or oath of two witneſſes; the penalty to be levied by the Conſtable or Church-warden to the uſe of the poor by warrant of any Juſtice of Peace by diſtreſs, or by any that will ſue for the ſame at the Quart. Seſſions in the ſame County within ſix months, his reward not to be above the third part. 1 *Car. c.*1.*Dal.*134.

Shewing of Boots on the Sunday, with intent to ſell them, loſeth 3 ſhillings 4 pence, and the value of the Boots. 1 *Jac. cap.*22. *Lam.* 466.

Superſedeas.

Superſedeas is ſufficient, though it neither name the ſureties, nor contain the ſum wherein they are bound; but it is better if it do both, *Lam.*96.*Dal.*172.

Superſedeas delivered to the officer, if he urge new ſureties, the party may refuſe; and if he be committed, he may have his action, *Lam.*99.*Dal.*172.

Superſedeas out of the Chancery will diſcharge ſurety of the Peace in the Kings Bench, and either of them a precept for the

peace

peace awarded by a Juſtice of Peace; and an attachment lieth againſt him if he ſurceaſe not, and he may be impriſoned and fined for it. *Lam.* 99. *Dal.* 172, 173.

Superſedeas received by a Juſtice of Peace out of an higher Court, he ſhould forbear to make any warrant, or if one be made, to ſend out his *Superſedeas* to the Sheriff, or other officer, to deſiſt to put it in execution, *Lam.* 99. *Dal.* 172.

Superſedeas out of the Chancery is to be certified at the next Seſſions, together with the recognizance for the Peace; if the *Superſedeas* do teſtifie that he hath found ſurety in the Chancery only unto a certain day, which day is after thoſe Seſſions, if the *Superſedeas* come to his hands after his recognizance taken, *Dal* 173. *Lam.* 113. for peradventure the recognizance was broken before the *Superſedeas* purchaſed.

Superſedeas for the good abearing, *quære* if it may be granted by a Juſtice of Peace, *Lam.* 113. *Dalt.* affirmeth it, 197.

A *Superſedeas* made by a Juſtice of Peace, and returned under his ſeal, is a ſufficient record to prove a recognizance taken for the Peace, and warrant to call the party bound, and if he make default, to record the ſame, *Lam.* 97.

If a Juſtice of P. will by a *Superſedeas* diſcharge a Precept for the Peace awarded by another by virtue of his office, and not by *Applicavit*, the recognizance would be taken according to the form of the Precept, *Lam.* 96. *Dal.* 172.

Certiorari to remove a record is in it ſelf a *Superſedeas* to the Juſtices, yet the party may have a *Superſedeas* to the Sheriff that he arreſt him not upon the Juſtices record, *Lam.* 515.

Whether the Juſtices *ex officio* after a *Certiorari* ought to award their *Superſedeas* to ſtay proceeding upon the record, *quære Lam. ibid.*

An *Exigent* awarded againſt one indicted of a treſpaſs before the Juſtices of Peace, may be ſtayed by *Superſedeas* out of the Chancery, upon ſurety found there to appear at the day in the Writ, though he be taken upon it, *Lam.* 526, 527.

So by *Superſedeas* granted by two Juſtices of Peace, one being of the Quorum, teſtifying that he hath found ſureties, *de fine eſſendo, Lam. ibid.*

Yet *Dal.* and *Cro.* ſay, by one Juſtice of Peace, *Dal.* 319. *Cro.* 234. a.

If a *Superſedeas* be directed to the Juſtices of Peace and Sheriff, the Juſtice to whoſe hands it ſhall be delivered, may keep it, and deliver the label to the party, *Dal.* 178.

Superſedeas granted for the Peace, or good behaviour, out of the Chancery or K. Bench, is void, unleſs it be upon motion in open Court, and upon ſureties of five pounds in lands, or ten pounds in goods in ſubſidy, "and unleſs it appear to the Court, that ſuch "proceſs of P. or good behaviour is proſecu- "ted againſt the deſirer of ſuch *Superſedeas* "*bona fide* by ſome grieved in that Court "out of which the *Superſedeas* is deſired, 21 *Jac.* c. 8. *Dal.* 174.

Whether

Whether the party bound, sending the *Supersedeas* to the Sessions, be discharged of his appearance there, *quære Dal.* 173. *Lam.* 113. the precedents are, that the party appeared and prayed allowance, &c.

Supplicavit.

He only to whom the Writ of *Supplicavit* is delivered, must execute it, *Dal.* 186.

The Justice that receiveth the Writ, may raise the Warrant to the Constable or other party indifferent; and if he refuse to finde sureties, to carry him to prison, *Dal.* 186.

The party attached can be bound only before him that sent out the Warrant, *Dal.* 186.

The Justice is to execute the *Supplicavit* as it directeth, *Dal.* 187.

If the summes be left to discretion, it is safe to take good summes, *Dal. ibid.*

After sureties taken, the Justice may make him a *Supersedeas*, *Dal.* 189.

The Justice needs not return the *Supplicavit*, nor make certificate, untill a *Certiorari* do come to him; *Lam.* 109. *Dal.* 190.

Supremacy.

To refuse the oath of Supremacy, the first offence is *Præmunire*, the second Treason, 1 *Eliz. cap.* 1.

Surety of the Peace is the aknowledgement of a recognizance to the King (taken by the competent Judge of record) for the keeping of the Peace, *Dal.* 161. *Lam.* 75.

Every Juſtice of Peace may take and command the Peace either as a Judge or Miniſter, *Dal. ibid.*

Juſtice of Peace may command ſurety of the Peace, either of their own diſcretion, or at the prayer of another.

In what caſes a Juſtice of Peace may command ſurety of the Peace by his own diſcretion, Dal. 162.

1. One that maketh an affray upon the Juſtice himſelf, or an aſſault.

2. Such as in his preſence make an affray upon another, or offer to ſtrike another.

3. Such as in hearing ſhall threaten to kill, beat, or hurt another, or to burn his houſe.

4. Such as in his preſence contend only in hot words.

5. Such as in his preſence go or ride armed offenſively, or with unuſual number of ſervants or attendants; and ſervants and labourers that bear any weapons contrary to the ſtatute of 12 *Ric.2. cap.6.*

6. Any perſon by him ſuſpected to be inclined to break the Peace.

7. If the Conſtable bring one before him that ſhall threaten to kill, maim, or beat another.

8. If the Conſtable bring one, who in his preſence attempted to break the Peace by drawn weapon, ſtriking or aſſaulting another.

9. Whom

9. Whom the Conſtable findeth fighting or quarrelling in a houſe, he may break open the door, and bring them before a Juſtice of Peace to be bound.

10. He may make his warrant for ſuch as have made an affray, and bind them to the peace.

11. If one have received a wound, he may bind the one and the other till the wound be cured, and the malice over.

12. Such as go or ride armed offenſively in Fairs or Markets, or wear or carry dags or piſtols charged.

13. Common Baretours, *Dal.* 163.

14. Rioters.

15. Him that ſtandeth bound to keep the peace, and hath forfeited his recognizance by breach of the peace; but not till he be convicted, and the forfeiture levied, *Dal.* 163. Yet *Cro.* 141. ſaith, that he may be bound anew if he be only convict for breaking the peace.

16. Him that ſtandeth bound, if his ſureties be inſufficient.

Juſtice of Peace is to ſend to priſon him that refuſeth to give ſureties, untill he find ſureties, *Dal.* 163. *Cro.* 138. b. *in.* 8.

Juſtice of Peace may cauſe one to be arreſted to find ſurety of the peace againſt another, and grant a warrant for it, for he might have bound him of his own authority, *Dalt.* 163.

"Juſtice of Peace may perſwade a man to "require ſurety of the peace againſt another,

"and grant a Warrant for it: for he might "have bound him of his own authority, "*Lam.*78. *Dal.*162,336.

At the requeſt of another he may command ſurety of the peace, but muſt firſt take an oath of the party that demandeth the peace, that he ſtandeth in fear of his life, or of ſome bodily hurt, or to have his houſe burnt, *Lam.*83. *Dal.*163.

"Sureties in a recognizance ought to be "two, and regiſtred in Subſidy: for though "ſome may be ſufficient which were not aſ- "ſeſſed, yet it ſtandeth not well together, "that he ſhould be bound to the King in 10 "pound or 20 pound, that in ſubſidy was not "found worth any thing, *Dal.* 175.

"Juſtices of Peace in Seſſions may exa- "mine ſureties upon oath of their ſufficien- "cy, *Dal.* 175.

Cauſes to require ſurety of the Peace.

1. He that is threatned to be hurt in body, as to be beaten, wounded, maimed, or killed, *Dal.* 164.

2. He that feareth another will beat, wound, maim, or kill him, *Dal. ibid.*

3. He that feareth another will burn his houſe, *Dal. ibid.*

4. He that feareth that *A.* will procure another to hurt him in his body, or burn his houſe, *Dal.* 164.

5. If a man lie in wait to beat, kill, or hurt another, *Dalt. ibid.*

Quære, if he threaten to burn his goods.

In

In what caſes a man ſhall not have the Peace granted.

1. To threatnen one to impriſon him, *Dal.* 164. *Lam.* 82. *Cro.* 135. a. *Quære tamen. Br. Peace* 22.

2. Where one is in fear that a man will hurt his ſervant, cattel, or other goods, *Dal.* 164. *Cro.* 138. a. *Lam.* 83. but he may have a writ out of the Chancery. *Dalt.* ſeemeth to be of the other opinion, 164.

3. Becauſe he is at variance with his neighbour, *Dal.* 164. *Lam.* 83.

4. Where there is no fear of preſent or future danger, *Dal.* 164. *Lamb.* 84.

5. For a battery paſt: yet a Juſtice, if he ſee cauſe, may bind over the affrayers, *Dal.* 365. *Pax Regis* 14.

Juſtice of Peace may deny to grant ſurety of the peace, if it be upon meer veration; yet if the party will take his oath, it is not ſafe to deny it, *Dal.* 165. yet afterwards perceiving it to be of malice, and for vexation, he may bind the party ſo requiring it to his good behaviour.

Againſt whom ſurety of the Peace may be granted.

Againſt a Knight, or any perſon under the degree of a Baron, *Dal.* 166.

"Againſt Sheriff, Coroner, Eſcheator, "or other officer of Juſtice. But it is not

as good to bind them *versus cunctum populum*, as *Dal.* 166. *Lamb.* 80. 81.

Against any Eccleſiaſtical perſon not doing Divine Service in the Church or Church-yard, or other place dedicated to God, *Dal.* 166. 50 *Ed* 3. *c.* 5. 1 *R.* 2. *c.* 15.

One Juſtice of Peace may grant the ſurety of the peace againſt his fellow Juſtice, though ſitting in Seſſions, *Cro.* 134. b. *Dal.* 167. *Lam.* 80.

One Juſtice of Peace may demand the peace againſt another man, *Lamb.* 81. *Dal.* 167.

The wife may demand the peace againſt her husband, if he threaten to kill her, or outragiouſly beat her, or ſhe have notorious cauſe to fear it; and the husband may crave the peace againſt his wife, *Dal.* 167. *Lamb.* 78. *Cro.* 133. b.

The peace may be granted to a feme-covert, or an infant under the age of 14 years, if he have diſcretion to crave the peace, but they muſt be bound by ſureties, and an infant under that age may demand it, *Dal.* 167. *Lam.* 79.

A Lunatick may crave the peace, and have it granted him, *Dal.* 167. *Lam.* 79.

It may be granted againſt one attainted either of treaſon or of felony, or convict of hereſie, *Dal.* 168. and they may demand it, *Lam.* 79.

It may be had againſt an excommunicate perſon, *Dal.* 168. and an abjured perſon, *ib.*

It may be had againſt one attainted in *Præmunire*, and againſt an alien either made denizon,

denison, or living in England, *Dal. ibid.*

It may be had against one dumb and blind, so against an impotent person, *Dalt.* 168. *Lam*, 79.

Against whom the Peace cannot be granted.

1. It cannot be granted against any Nobleman or Noblewoman, *Dal.* 165.

2. Against one *non sane memoriæ*, unless he have *lucida intervalla*, *Dal.* 167. *Lam.* 79.

3. Against one born dumb and deaf; but if he become dumb and deaf, or made blind and deaf accidentally, he may have understanding, and the peace may be granted to him or against him, *Dal.* 168.

How the surety of the Peace is to be commanded and executed.

A Justice of Peace may { word, / writing. } command the Peace by

By word.

The party being present in the presence of the Justice of Peace, threatneth another, or maketh an assault or affray upon another, or doth any other act tending to the breach of the Peace, *Dal.* 169. *Cro.* 138 b. *nu.* 8. *Lamb.* 84, 85.

One demandeth the surety of the Peace, being present, and taketh his oath he is affrayed, &c. the Justice may command the other to find surety, *Dal.* 169. *Cro.* 138. b. *Lam. ibid.*

The Justice in such cases may command the Constable or other known officer, or his own servant being present, to arrest such party to find surety of the Peace, and may commit to the Gaol such party refusing to find surety, *Dal. Cro. Lam. ibid.*

By writing.

The Justice by precept or warrant in writing under his seal directed to some known officer, or other indifferent person, containing the cause, and at whose suit, to the end the parties may provide the sureties, and take them with them, *Lam.* 87. *Dal.* 170.

The Justice may make his warrant to bring the party before him, but the usual manner is to bring the party before the same Justice or some of the Justices of the County, *Dal.* 170.

Who may serve the Warrant, vide *Warrant.*

The Constable is first to acquaint the party with the matter in the Warrant; and if he refuse to go before the Justice to find sureties, he may arrest him and carry him to the Gaol, without carrying him to the Justice, *Lam.* 90. *Dal.* 170. *Br. Faux Imprif.* 18.

If the party yield to find surety, the officer is not bound to go up and down with him, but may keep him until he can procure sureties to come to him; if afterward he make resistance, or offer to go away, he may by his warrant carry him to the Gaol, and set him in the stocks till he can get aid to carry him to the Gaol, *Dal.* 170, *Lam.* 92.

The

The arreſt is not juſtifiable, except the Officer do carry him to the Gaol that refuſeth to find ſureties, *Cro.*171.b. *Dal* 171.

The party may go before any other Juſtice (if the warrant proceed *ex officio*) to offer the ſureties, but cannot force the Officers to travel out of the deviſion where they dwell. Nay it is at the election of the officer to carry the party to any other Juſtice, rather then to give the election to the delinquent, *Dal.*171. *Lam.* 94.

The party coming before the Juſtice, is to offer his ſureties, or elſe the Juſtice is to commit him, for the Juſtice needeth not to demand them, *Dal.* 171.

If the party refuſe before the Juſtice of Peace to find ſureties, the officer by the firſt Warrant may commit him, *Dal.*171. *Lam.*92.

The Officer is fineable if he arreſt the party, and do not carry him before a Juſtice of Peace, if he be willing to find ſureties, ſecondly, if upon refuſal they arreſt him, and do not carry him to the Gaol, *Dal.* 171.

The party being impriſoned, the Juſtice of Peace may make him his *Liberate*; firſt, if the complainant die; ſecondly, if he do enter ſurety of the Peace, *Dal.* 171.

If the impriſoned have a ſuit depending in the Common Pleas, by ſome opinions, the impriſoned may be diſcharged by a Writ of priviledge. *Quære tamen*, *Dal.* 171. *Lam.* 94. *Cro.*138. a. *nu.* 4.

A ſworn and known officer needeth not to ſhew his Warrant, but the ſervant of the Juſtice

Juſtice muſt ſhew it if it be required, *Lam.* 89. *Dal.* 340.

If Husband and Wife be bound to appear, and in the mean time to keep the Peace, and the Husband only appeareth, the recognizance is not forfeited, *Dal.* 179. *Quære Cro.* 144. b.

Suſpicion and ſuſpects of felony.

A ſuſpect of felony ought not to be arreſted by a Warrant from a Juſtice of Peace, unleſs he be indicted before: for if the Bailiff which ſerveth the Warrant doth ſuſpect him, he may do it of himſelf without a Warrant; and without ſuſpicion the Juſtices Warrant is no Warrant, *Lam.* 188. *Dal.* 339. *Cro.* 147. b. 148. b. 197, a. *nu.* 21. *Quære Dal.* 339. *B. Faux Impriſ.* 8.

Suſpicion only without felony committed, is no cauſe to arreſt another, *Cro.* 154. a. *nu.* 28. *Dal.* 331. *Brook ibid.* 1, 4.

A felony being committed, every man may arreſt ſuſpicious perſons that be of evil fame, &c. and if ſuch perſon make reſiſtance, the other may juſtifie to beat him, *Dal.* 345.

The Conſtable or other perſon that arreſteth one for felony or ſuſpicion, muſt himſelf ſuſpect, *Dal.* 311, 345. *Cro.* 99. b. *nu.* 43.

"In an arreſt for ſuſpicion of felony, the "party that cauſeth the arreſt muſt ſuſpect "him, and alſo ſhew ſome cauſe of ſuſpicion: "otherwiſe every man may arreſt another "for felony done, *Cro.* 99. b. *nu.* 44. *Dal.* 311, "512. where he maketh a *quære.*

Swans.

Swans.

Taking away from his own or another mans ground Swans eggs of another mans, upon conviction and examination of witnesses is imprisonment for a year and a day, and loss of ten pound, *Law.* 446.

To steal Swans unmarked, if they be *domiti*, and kept in a mans Manour, or private River, is felony, *Dal.* 267.

Swearing.

He that sweareth or curseth, being convicted by hearing of any Justice of the Peace, or by oath of two witnesses, or confession of the party before a Justice of Peace, loseth 12 pence to the poor, where the offence shall be committed, to be levied by distress, the offence being proved within twenty daies; or for default of a distress, to be set in the stocks three hours, 21 *Jac. cap.* 20. & 3 *Car. cap.* 4.

"The Warrant for distress is to be made "the Constable, Churchwardens, and Overseers of that parish where the offence is "committed, 21 *Jac. c.* 20.

The offender being under twelve years of age, and not forthwith paying his twelve pence, by warrant of a Justice of Peace, or Head-officer, is to be whipped by the Constable, or by the Parent or Master in his presence, *ib.*

Taxa-

Taxations, *v.* Stock of the ſhire.

TAxation made for a Common-wealth, as making or mending of bridges, highwaies, cauſeys, ſea-banks, &c. ſhall be upon all perſons though they aſſent not, *Dal.* 141. *Coke* 5, 63. *Br. Cuſtomes* 6.

"A Town is amerced, and by aſſent of "neighbours every inhabitant is aſſeſſed, and "they appoint I. S. to collect it, and for non-"payment ſuch a day, to diſtrein: ſuch a "diſtreſs taken by I. S. for rates is good, *Dal.* "141. *Brook Cuſtomes* 6. *Coke* 5, 63. *Doctor & Student* 74. b.

Tale-bearers, *vide* News.

Tanners, *vide* Leather.

Tavern-keeper.

Aſſignment of ſuch as ſhall keep a Tavern to utter wine, is to be made at the general Seſſions, unleſs it be otherwiſe by eſpecial grant, 7 *Ed.* 6. *cap.* 5. *Lam.* 614.

Teſtimonial.

Teſtimonial under the hand of one Juſtice of Peace ſealed, is ſufficient to paſs in haytime and harveſt-time from one County to another, *Lam.* 190.

In all teſtimonials and paſports, ſome aſſured marks of the party, by which he may infallibly

fallibly be diſtinguiſhed and known from others, are fit to be ſpecified, *Lam.* 206.

Teſtimonial for a ſerving-man turned from his maſters ſervice, or whoſe maſter is dead, ought to be made by two Juſtices of Peace, 27 *El. ca.* 11. *Lam.* 331. *Dal.* 127. maketh a *Quære.*

"None retained in husbandry is to depart "without Teſtimonial at the end of his "term, 5 *El. c.* 4. *Vide* Servants.

Theft.

Theft is a fraudulent and felonious taking of another mans perſonal goods, in the abſence of the owner, and without his knowledge, *Lam.* 272. *Dal.* 262.

Theft is either Grand larceny, or Pety-larceny.

Grand-larceny is when goods ſtollen are above 12 pence, and it is felony of death, except the party be ſaved by his book, *Dal.* 263.

Yet if the goods be of more value, and the Jury find it did not exceed 12 pence, it is not Grand-larceny, *Dal. ibid.*

Pety-larceny is if the goods do not exceed 12 pence, and is not felony of death, but imprisonment for ſome time, or whipping, or ſome other puniſhment by the diſcretion of the Juſtices before whom the party is arraigned, *Dal. ibid.*

For pety larceny, the Juſtice of Peace before whom the offender ſhall be brought is not to puniſh him, but either to ſend him to the houſe of Correction, or to bail him, *Dal. ibid.*

Pety-

Petty-larceny is forfeiture of goods and chattels.

Six pence, four pence, and three pence, being taken by one at several times from one and the same person, may be put together in one indictment, *Dal.*263. *Lam.*273. *Stam.*24.

If two or more steal above 12 pence from one, it is felony of death in every one, *Dal. ibid. Lam.*273.

The manner.

To make an act larceny, there must be first a taking, secondly, a carrying away, *Lam.* 277. *Dal.*263.

Yet it may be felony, though the offender came to it by the delivery of the owner, *Lam.* 278.

As,

A Taverner setteth plate before his guests to drink in, and his guests carry it away; it is felony, *Dal.*264. *Lam.*278. *Cro.*35.b.*nu.*4.

A Carrier carrieth goods to him delivered to the place appointed, and there breaketh them up, and embezelleth them; it is felony, *Dal.*264 *Cro.*36.a.*nu.*13. *Lam.*279.

A Carrier taketh out parcels of the goods to him delivered; it is felony, *Dal.*264. *Cro.* 36.a. *nu.*11.

A Carrier conveyeth them to another place, and there breaketh them up, and conveyeth part or all to his own use; it is felony, *Dal.*264. *Lam.*278.

where, after delivery, the imbezelling is no felony.

A Carrier imbezelling the whole, *Lam.* 278. *Cro.* 36. a.

A ſtranger borroweth a horſe, and rideth away.

A Clothier delivereth his wool to his work-folk.

One delivereth his goods to another to keep.

One delivereth mony to *A.* to pay *B.*

Felony in ſervants by force of the ſtatute 5 *El. cap.* 10.

Servant of the age of 18 years (other then in apprentice) to whom any mony, goods, or chattels, &c. by his maſter or miſtreſs ſhall be delivered to keep, of the value of 40 ſhillings or above; if he go away with, or convert the ſame to his own uſe, with intent to ſteal the ſame, or to defraud his maſter or miſtreſs, it is felony, if it be proſecuted within a year, *Lam.* 279. *Dal.* 265.

Wherein are divers Caſes.

A man receiveth of his maſter 20 pound in gold to keep, which he changeth into ſilver, and runneth away with it, they are both of one nature, therefore felony, *Dal.* 265. *Lam.* 280. *Cro.* 35. b. *nu.* 6.

One ſervant delivereth to his fellow-ſervant:

vant to the value of 40 ſhillings of his maſters goods, and he goeth away with it, or convereth it to his own uſe; it is felony, *Dal.ib. Cro.*50. a. *Lam.*280.

A ſervant maketh a garment of his maſters cloth, and goeth away therewith; it is felony, *Dal.*265. *Cro.*50.a.

Quere of barley converted into malt, or mony melted into a piece of metal, *Dal.* 266.

An obligation is delivered unto a ſervant, and he goeth away with the mony received upon the ſame obligation; it is no felony within the ſtatute of 5 *El.c.*10 for the maſter delivered not the mony, *Dalt.*265. *Cro.*35.b. *nu.*5.50.a.

The ſervant carrieth his maſters wares to market, ſelleth them, and goeth away with the mony, or converteth it to his own uſe; it is not felony within the ſtatute of 5 *El.* c.10. *Dal.*266. *Cro.*50.a. *Lam.*280.

A Receiver receiveth rents, and goeth away with them; it is no felony, for the ſtatute is, where the maſter delivereth to keep, *Dal.*266. *Cro.* 50. a.

I deliver to my ſervant an horſe to ride to market, or mony to buy things, or pay another, and he goeth away with it; it is no felony at the Common law, for it was of his maſters delivery, *Dal.*266. *Cro.*35.b.*nu.*7. *Quere* if it be not felony by 5 *El.* c. 10.

" My ſhepherd ſelleth my ſheep falſly, it " is felony, *Cro.*35. b. *nu.*9. but *Stamf.*25.a. *è contra.*

A ſervant keepeth the key of his maſters chamber-

chamber-door, and taketh away above the value of twelve pence; it is felony at the Common law, for they were not delivered him, *Dal.* 266. *Lam.* 379.

A gueſt taketh the ſheets or other goods of the hoſt felonioufly into ſome other room of the houſe, it is felony, *Dal.* 266. *Cro.* 35. a. *Lamb.* 281. *Br. Coron.* 107.

A man felonioufly taketh an horſe, and is apprehended before he gets out of the cloſe where he went, *Lamb.* 281. *Dal.* 267. *Cro.* 36. a. *nu.* 12.

Not enquirable before Juſtices of Peace.

A ſervant taketh away or ſpoileth his deceaſed maſters goods; in default of appearance in the Kings Bench after proclamation, it is felony, *Dal.* 266. *Cro.* 56. a. 6. 33 *H.* 6. c. 1.

Of what things Felony may be committed.

Of moveable goods, as mony, plate, apparel, houſhold-ſtuff, &c. ſo of corn, hay, trees, fruit, &c. being ſevered from the ground, *Dal.* 267. *Lam.* 273.

Of domeſtical things, as horſes, mares, colts, oxen, kine, ſheep, lambs, ſwine, pigs, hens, geeſe, ducks, turkeys, or any other domeſtical beaſts or birds of tame nature: and though they run or fly away out of the owners ſight, the detainer is puniſhable by action, *Dal.* 267.

Of

Of wild nature, young pigeons out of another mans dove-house, young hawks or herons breeding in parks or several grounds, fishes kept in a trunk or pond, *Cro.* 36. b. *nu.* 22. *Lam.* 274. *Dal.* 267. *Stam.* 25. saith goshawks.

Quære of old doves in a dove-house, *Lam.* 274.

So swans marked, and at large, and tame deer marked and domestical, if the taker know it to be tame, *Dal.* 267. *Lam.* 275. *Cro.* 36. b. *nu.* 23.

By statute it is felony to hunt deer or conies after some sort in park, forest, or warren, or to take a tame beast or other thing in a park by manner of robbery, *Vide* 3 *E.* 3. *c.* 10. 1 *H* 7. *c.* 7. *Lam.* 275. *Dal.* 268.

So to take away or conceal an hawk, *ib.*

To steal the flesh of tame and wild fowl dead, is felony, *Stam.* 25. *Lam.* 275. *Dal.* 269.

To pull woull off the sheeps backs, or to kill them for their skins, *Dal.* 269. *Cro.* 36. 2. *nu.* 17. *Law. ib.*

A man may commit felony in taking his own goods: As, I lend or deliver goods to another to keep, and after take them away feloniously or fraudulently, to recover the same by action of Detinue, *Dal.* 270. *Cro.* 37. b. *nu.* 4. b. *Stam.* 26. a. *Lamb.* 277. *Br. Coro.* 143. *q ære.*

I lend or deliver my plate or goods to another, who melteth my plate, or changeth the fashion of my goods, to take them feloniously is felony in me, *Dal.* 270. *Cro.* 37. a. *nu.* 34. *Lam.* 277.

If a man purſue or take a felon that hath ſtollen his goods, taketh them and ſuffereth the thief to eſcape, he is no acceſſary; for he may *agere civiliter aut criminaliter in initio*, *Lam.* 290. *Terms of Law*, *Titu. Theft-boot*, *Cro.* 37. a. 45. b. 42. b. *P. R.* 131. *Dal.* 296.

If the party robbed take mony, &c. of the thief, to the end that he ſhall not give evidence againſt him, whereby the thief eſcapeth, he is acceſſary to felony of his own goods, *Lam.* 290. *Dal.* 296. *Cro.* 41. *nu.* 5.

Quære, if a man having made complaint to a Juſtice of Peace, take his ſtollen goods again, and doth not proſecute the matter, whether it make him not acceſſary, for that he did once *agere criminaliter*, *Dal.* 296.

Of what things Felony is not committed.

Things which are real chattels, *Lam.* 275, 276. *Dal.* 270.

To cut down any tree or corn, or pull any apples, or carry them away, *Dal.* 270. *Lam.* 276. Being cut and gathered for one, and then for another to carry them away, it is felony: or if a ſtranger cut at one time, and carry away at another time, it is felony, *Dal.* 270. *Cro.* 36. b. *nu.* 26. *Lam.* 276.

Lead upon an houſe or Church is part of the freehold, *Dal.* 270. *Cro.* 37. a. *nu.* 33.

Evidence of a mans land, indenture of leaſe, or other writings in box or out of box, cannot be valued, *Lam.* 275. *Dal.* 270.

To

To take away an infant in ward, is no felony, *Da.*270. *Lam.*276.

Treasure trove or hidden, wreck of the sea, goods waived or straied; for the owner is unknown, *Lamb.* 276. *Br. Coro.* 96. *Dal.* 270.

But felony may be committed by taking *bona ignoti*, or *mortui & ignoti*, or *parochianorum*, or of a Church or Chappel, or of a Corporation in time of vacation, *Lam.*266, 277. *Dal.*270.

What persons are chargeable in larceny.

A woman covert by her self, her husband not knowing thereof, committeth larceny as principal, if she steal another mans goods; or as accessary, if she receiveth the thief that stole them, or receiveth the stollen goods into her house, knowing them to be so, or locketh them up; and the husband knowing thereof, the law will impute the fault to him, not to her: but if the husband so soon as he knoweth it, forsake his house and her company, and remain elsewhere, he shall not be charged for her offence, *Sta* 26. *P.R.*130. *Lam.*282. *Dal.*271.

The husband delivereth goods to a stranger, the wife stealeth them from the stranger; it is felony in the wife, *Dal.*271.

A stranger goeth away with another mans wife, and against her will carrieth away her husbands goods; it is felony in the stranger, *Cro.*35.a. *nu.* 2. *P.R.*130. *Dal.*271.

A

A ſervant ſtealeth by the compulſion of his maſter, it is felony in both, *Cro.* 37. a. *nu.* 37. *Dal.* 273.

Who are not Felons.

A wife ſtealeth by the compulſion of her husband, it is no felony in her, *Cro.* 36. b. *nu.* 27. & 37. a. *nu.* 36. *Lam.* 282. *Dal.* 271. but to do murder by her husbands compulſion, is felony in both, *Dal. ibid. Cro.* 37. a. *nu.* 38.

A wife ſtealeth by commandment of her husband without conſtraint, *quære Dal.* 271. *Stam.* 26. *P. R.* 130. *Lam.* 281.

The husband and wife together ſteal goods, it is felony in the husband only, *Dal.* 271. *Stam.* 26. *Lam.* 282.

A wife ſtealeth goods delivered to her husband, it is no felony, *Dalt.* 272. *Cro.* 37. a *nu.* 35.

The wife ſtealeth her husbands goods, and delivereth them to ſtrangers, it is felony in neither, *Dal.* 272. *Stam.* 27. *Lam.* 282. *Cro.* 35. a. *nu.* 2.

The wife receiveth the husband being felon, and relieveth them, ſhe is no acceſſary, *Cro.* 42. b. *nu.* 22. *Dal.* 272. *Stam.* 26.

An ideot, lunatick, dumb and deaf perſon, and an infant, are chargeable in larceny after the ſame ſort as they are chargeable in homicide, *Lam.* 282. *Dal.* 273, 295. *Vide* Manſlaughter.

Threatning.

He that ſhall be threatned to be hurt in his body,

body, to be beaten, wounded, maimed, killed may crave and have the peace againſt the other, *Dal.* 164. *Lam.* 82.

If a man be threatned to have his goods burned, *quære* if he may have the peace, *Dal.* 164. *Lam.* 82.

To threaten to impriſon a man, is no cauſe of the craving of the peace; for the wronged may have his action of falſe impriſonment, or his Writ *de homine replegiando*, *Dal.* 164. *Lam.* 82, 83. *Quære.*

To enter peaceably into an houſe, &c. and put out *B*, and preſently threaten and ſay to *B*, that if he do come thither again to enter, he will kill him; this ſeemeth a forcible entry: and if *B.* come again to make his entry, then if the other ſhall threaten to kill him, if he entreth, it is a forcible detainer, *Dal.* 202. *Cro.* 70. b. *nu.* 39.

Tile-making.

One Juſtice of Peace may enquire, hear, and determine by his diſcretion, as well by examination of the offender, as otherwiſe, the offence committed in tile-making, and aſſeſs the fine therein limited, and may appoint men skilful to be ſearchers. *Quære tamen* whether one may do it alone, *Lam.* 193, 194. *Dal.* 144. 17 *E.* 4. *c.* 4.

Earth for tile is to be digged before the firſt of November, and is to be turned and ſtirred before the firſt of February following, and to be tried from ſtones, veins and chalk, and not to be wrought before March follow-

ing,

ing, or loſe double the value to the buyer, 17 *E.* 4. *c.* 4. *Lam.* 468.

Plain tile put to ſale, is to be ten inches and an half long, 6 inches and a quarter broad, 3 quarters of an inch thick, or loſe 5 ſhillings a hundred, 17 *E.* 4. *c.* 4. *Lam.* 468.

Roof-tile muſt be 13 inches long, half inch and half-quarter of an inch thick, conveniently deep, or loſe 6 ſhill. 8 pence an hundred, *ibid.*

Gutter-tile muſt be 10 inches and a half long, of convenient breadth, depth, and thickneſs, or loſe two ſhillings an hundred, *ibid.*

Searchers of tile, for every default in ſearching, loſe 10 ſhill. *ibid.*

Tipling.

The Inn-keeper, Victualler, or Alehouſe-keeper, that ſuffereth any to continue tipling in his houſe, ſhall forfeit 10 ſhill. to be levied "by diſtreſs, by warrant from one Juſtice of "Peace, and to be ſold after 6 daies; for "want of diſtreſs to be ſent to the gaol till "paiment be made, 1 *Jac. c.* 9. 7 *Jac. c.* 10. 1 *Car. c.* 4. *Lam.* 192.

"The Oath of Conſtables, Churchwardens, Headboroughs, Tythingmen, and Ale-canners, are to be inlarged, and extend to "preſent all offences againſt the ſtatutes of 1 *Jac. c.* 9. & 4 *Jac. c.* 5. 21 *Jac. c.* 7.

Any continuing tipling in an Inn, Victualling-houſe, or Ale-houſe, ſhall forfeit 3 ſhill. pence to the poor, or not being able to pay the ſame, ſhall ſit in the ſtocks four hours,

1 *Jac. c.* 9. 7 *Jac. c.*10. 21 *Jac. c.*7. *Vid.* Alehouſes, 4 *Jac. c.* 5.

Tythes.

Two Juſtices of Peace, one being of the Quorum, upon complaint by any competent Judge of tythes, for any miſdemeanour of the defendant in a ſuit of tythes, may cauſe him to be attached and committed to ward, till he finde ſurety by recognizance to obey the ſentence and proceſs of the Judge, 27 *H.*8. *c.*7. 27 *Eliz. c.*11. *Lam.*357. *Dal.* 141.

Upon complaint in writing by an Eccleſiaſtical Judge that hath given definitive ſentence in caſe of tythes againſt one wilfully refuſing to pay tythes or ſum of money adjudged, two ſuch Juſtices of Peace may cauſe the party to be attached and impriſoned, till he find ſurety to perform the ſentence, 32 *H.* 8. *c.*7. *Dal.*144. *Lam.*357. *Cro.*197. *a.nu.*22.

Tobacco.

Juſtices of the Peace, Mayors, Bailiffs, Conſtables, and every of them upon complaint to any of them of any Tobacco ſown or planted within their Precincts in *England*, *Wales*, or &c. ſhall within ten daies after ſuch Complaint cauſe the ſame to be deſtroyed: And any perſon reſiſting or oppoſing the execution of the ſaid Act, to forfeit 5 *l.* for every offence, to be recovered by diſtreſs and ſale of the Offenders goods, and for want of diſtreſs, impriſonment of the offender two months without bail, 12 *Car.*2. *ca.*33.

To

Toll.

Miller taking Toll by heaped meaſure, is to be fined, 31 *Ed.* 1. *de piſtoribus*, *Lam.* 461.

Miller taking exceſſive Toll, *viz.* more then the twentieth or twenty fourth part of the Corn according to the force of the water, or by a Toll-diſh not agreeing with the Kings meaſure, or otherwiſe then by ſtrike, ſhall be grievouſly amerced, 51 *H.* 3. *c.* 3. *Cro.* 92. a.

A Miller ſhall have Toll of a buſhel of hard Corn three wine pints, and of a buſhel of Malt but one pint, if the Corn be brought to the Mill; for that a Mill will grinde three buſhels of Malt as ſoon as one buſhel of hard Corn, *Cro.* 92. 2. *Quære*, for 51 *H.* 3. *c.* 3. doth not expreſs ſo much, *Vide Dal.* 151.

Toll-gatherer for horſes taking above a penny for one contract or entring the parties names, and that in the ſame place only where the market or fair is, and between ten of the clock in the morning and Sun-ſetting, loſeth ten ſhill. and is to anſwer the party grieved, 2 & 3 *P.* & *M.* *c.* 4. *Lam.* 471, 472.

Toll taker not knowing the ſeller of an horſe, mare, &c. the ſeller may bring one credible witneſs that will teſtifie he knoweth the ſellers name, myſtery, and dwelling-place, and there to enter them with the true price of the horſe, or loſeth 5 l. 31 *Eliz.* *c.* 12. *Cro.* 91. 2. *Lam.* 472.

Any giving teſtimony to the Toll-taker, unleſs he do truly know the ſame, loſeth five pound, *ibid.*

" A thief selleth a stollen horse by a fal
" name, and is so entred into the Toll boo
" such misnaming maketh the sale void, D
" 74.

Toll-taker refusing to give to the buyer o
taker of such an horse, &c. a true note i
writing of his entry, the party paying t
pence for the same, loseth 5 l. 31 *El. c.* 12.

Transportation.

Every man may transport corn, it being
the prices following, except it be forbid
by proclamation, 1 *Jac. c.* 25. 21 *Jac. c.* 3
3 *Car. c.* 4.

Wheat, Rie and Pease, Barley and Oats,	a quarter	26 shil. 8 pe 15 shill. 14 shill.

Every subject born within the Realm, wh
the prices of Corn at the times, places, a
havens when and where the said corn shall
bought, shipped or laden, exceed not the ra
following, may carry and transport of
own, and buy to sell again in markets, or
of markets, and to keep, or sell, or carry,
transport any of the said Corn from the p
ces where they shall be of such prices, u
any parts beyond the seas in amity with
Majesty, in English vessels, or carry or sel
other places within the Realm, except w
such transportation shall be forbidden by
Kings Proclamation, 3 *Car. c.* 4.

Wh

Wheat, Rie, Peaſe and Beans, Barley,	a quarter	32 ſhill. 20 ſhill. 16 ſhill.

Every man may tranſport any beer, when the price of a quarter of Malt exceedeth not 16 ſhillings.

Traverſe.

Traverſe is the denying of the chief matter in an indictment, *Lam.* 540.

Traverſe upon a forcible entry or detainer found upon preſentment, *quære* before whom the traverſe is to be made or tendred, *La.* 158.

Notwithſtanding offer of traverſe upon enquiry of a force, the Juſtice of Peace muſt make the reſtitution by the ſtatute of 8 *H.* 6. or elſe deliver or certifie the preſentment in the Kings Bench, *Lam.* 158. *Dal.* 60.

Traverſe lyeth where one Juſt. of P. alone will take upon him to record a Riot that he ſeeth, and the party ſhall not be concluded thereby, *Lam.* 182.

Traverſe of an indictment of felony or treaſon is not uſual, *Lam.* 541.

Traverſe of an indictment may be before the Juſtices of Peace, *Lamb.* 542. If the Court where the preſentment is found, cannot award proceſs thereof, it cannot receive a traverſe of the preſentment, as a leet of bloodſhed, *Lam.* 542.

That Court that may award proceſs *ad reſpondendum* upon an indictment, may take a traverſe of it, *Lam.* 543.

Preſentment of bloodſhed found in the Sheriffs turn, and ſent to the Juſtices of Peace, cannot be traverſed before them, *Lam.* 542.

One of the enqueſts preſents himſelf, it is not traverſeable, *Lam.* 543.

"Where proceſs *ad reſpondendum* goeth "out upon an indictment that is traverſa- "ble, the party may offer and have his tra- "verſe, *Lam.* 542, 543.

"*Quære* whether a man be admitted to "traverſe a preſentment, except it charge "him in the freehold, *Lam.* 543.

Travelling beyond the Seas.

Officer of Ports, or owner of a Veſſel ſuffering any woman or child under 21 years of age, except Sailers ſhip-boies, apprentices or Factors of Merchants in their trades, to go, or carrying any of them beyond Sea, without licence of the King or ſix of the Privy-Councel under their hands, ſuch Officer of the Ports forfeiteth his office and all his goods, and the maſter of the Veſſel his Veſſel, and impriſonment without bail for twelve months, and loſeth alſo all his goods, 3 *Jac. c.* 4.

Any ſubject going beyond the Seas to ſerve any forrein State, not taking the oath of allegeance before the Controller or Cuſtomer of the Port, or either of their deputy or deputies, before his going, ſhall be a felon: the oath by them to be regiſtred and certified into the Exchequer once every year, or loſe 5 l. for every

every oath not certified, 3 *Jac. c.* 4.

Any Gentleman, or of an higher degree, or Captain, or other officer in the army, before his going beyond Sea to serve any forrein Prince or State, must be bound by the Controller or the Customer of the Port, with two sureties allowed by the Officer, unto the King in 20 pound, with condition not to be reconciled to the Pope, nor to practise any thing against the King, but knowing any thing to reveal it: the same bond to be by them registred and certified into the Exchequer once every year, or lose 5 pound for every default, 3 *Jac. c.* 4.

Children not being Souldiers, Mariners, Merchants Apprentices or Factors, going beyond Sea without licence of the King or six of the Privy Councel, (whereof the principal Secretary to be one) under their hands and seals, shall take no benefit by descent or otherwise of any lands, leases, goods or chattels, until he or they being 18 years old or above, take the oath of Allegeance before one Justice of Peace of the County where the Parents dwelt or dwell: and in the mean time the next of kin, being no Popish Recusant, to enjoy them till he shall conform to take the said oath of Allegeance, and receive the Sacrament of the Lords Supper, and then to accompt to him for the mean profits, and in reasonable time to make payment thereof. And the senders lose 100 pound, one third part to the King, another to the suer, another to the poor, 3 *Jac. c.* 5.

Traveller.

Inn-keeper or Alehouſe-keeper refuſing to lodge a traveller, Juſtice of Peace or Conſtable may compel him. *Quære* how, viz. to preſent the offence at the Aſſiſes or Seſſions, *Dal.* 28. *Br. Action ſur le caſe* 76.

Sir *James Lee* delivered, that the Inne-keeper or Alehouſe-keeper may for the ſame be indicted, fined, and impriſoned, or the party grieved might have his action, *Dal.* 28.

Treaſon.

Treaſon is a grievous offence done or committed againſt the King in his perſon, the Queen his wife, his Children, Realm, or authority, *Dal.* 227.

As,

To compaſs the death of the King, Queen his wife, or of their eldeſt ſon and heir; or to intend any of their deaths, though it be not effected *Dal.* 227.

To deflowre the Kings wife, his eldeſt daughter being unmarried, or his eldeſt ſons wife, *Dal.* 228.

To levy war againſt the King in his Realm, *Dal. ib. Br. Treaſon* 24.

To conſpire to levy war againſt the King, *Dal. ibid.*

To conſpire with a Governour of another County to invade the Realm, *Dal. ib.*

To kill one that is ſent on the Kings Meſſage, *Dal. ib.*

To encounter in fight, and kill ſuch as be aſſiſting

assisting to the King in his wars, or come to help the King, *Dal. ib.*

To aid the Kings enemies in his Realm, *Dal.* 228.

To counterfeit the Kings Great Seal, Sign-Manual, Privy-signet, or Privy-Seal, *Dalt.* 229.

To take an old Seal and put it to a new Patent, *quære* whether treason or misprision, *Dal. Fo. Sta.* 3. *C. Br. Treas.* 3. And so of those that without authority set the Kings Seal upon any writing, or fraudulently thrust a writing amongst others to seal, and so get it sealed, *Dal. ibid.*

To counterfeit the Kings Coin, or any Coin current within the Realm, *Dal.* 229.

To bring in any false money, knowing it to be false, *Dal.* 229. 1 & 2 *P. & M. c.* 3.

"To clip, wash, and lighten or falsify any "coin current within the Realm, *Dal. ibid.*

"To coin mony, not having authority, *Dal.* "*ibid.*

If he which hath the Kings warrant to coin, doth coin mony in *England*, *Ireland*, or elsewhere less in weight then the ordinance, or coineth false metal, *Dal.* 229. *Br. Treas.* 19.

All counsellers, procurers, consenters, or aiders of any the forenamed Treasons, are within the purview of the Statute, 25 Ed. 3. *for in treason all offenders are principal,* Dal. 230.

"Counterfeiting Gold or Silver, not the "proper Coin of this Realm, is misprision of "Treason, 14 *El. c.* 3.

To kill the Kings Chancellour, Treasurer,

Juſtice in Eyre, of Aſſiſe, or *Oyer* and *Terminer*, being in his place, and doing his office, is high treaſon, *Dal.* 230.

To extol the authority of the Biſhop of Rome within any of the Kings dominions, and the procurers, counſellers, aiders and maintainers thereof, the firſt offence is *Præmunire*, the ſecond Treaſon, 1 *El. c.* 1. 5 *El. c.* 1. *Lam.* 411. *Dal.* 231.

So to bring over any books that ſhall maintain, ſet forth or defend ſuch authority, and the readers and hearers that ſhall juſtifie them, *Dal.* 231.

So deliverers of ſuch books to others, with allowance and liking of the ſame, *Dal. ibid.*

So the Printers and utterers of ſuch books be all within the meaning of the ſtatute, 5 *El. c.* 11. *Dal. ibid.*

Refuſing the Oath of Supremacy, the firſt offence is *Præmunire*, the ſecond offence Treaſon, 5 *El. c.* 11. *Dal.* 205. *Lam.* 410.

To obtain from Rome, or by any authority from thence, any Bull or writing to abſolve and reconcile ſuch as will forſake their obedience to the King, and yield it to the Pope, or give or take abſolution by colour of ſuch Bull, or publiſh or put in ure ſuch Bull, 13 *El. c.* 2. *Dal.* 231. *Lam.* 226.

To abſolve, perſwade, or withdraw any ſubject from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romiſh religion for that intent, or move them to promiſe obedience to any other ſtate, or procure, counſel, or aid them that do it,

it, is treaſon, 23 *El. c.* 1. 3 *Jac. c.* 4. *Lam.* 220, 226, 412. *Dal.* 232.

To be willingly abſolved, perſwaded, withdrawn, or reconciled to promiſe ſuch obedience, or to procure, counſel, aid and maintain the ſame, is treaſon, except within ſix daies after their return into the Realm they ſubmit according to the ſtatute, 3 *Jac. cap.* 4. *Dalt. ibid.*

For Jeſuit, Prieſt, or other Eccleſiaſtical perſon (made by authority from the Pope) to come into, or remain in any of the Kings Dominions, contrary to the ſtatute, 27 *El. c.* 2. is Treaſon.

To compaſs the death of an uſurper of the Crown, is Treaſon, for which the offender may be arraigned in another Kings time, *Br. Treaſon* 10. *Dal.* 227.

To intend to deprive, depoſe, or diſ-inherit the King, or ſay he will be King after the King dieth, *Dal.* 227.

To ſet at large unlawfully any committed for Treaſon, is Treaſon by the Common Law, *Dal.* 229.

One impriſoned for felony, breaketh priſon, whereby a Traitor eſcapeth; it is Treaſon in him by the Common Law, *Dal.* 229. *Cro.* 35. a. *nu.* 5.

Voluntarily to ſuffer one to eſcape that is committed, or only under arreſt for Treaſon, is Treaſon by the Common Law, *Stam.* 32. *Dal.* 229.

Forfeiture in caſe of Treaſon is of Lands and Goods to the King, and at this day by

26 H.

26 H. 8. *ca.* 13. 5 *Ed.* 6. *ca.* 11. his lands entailed, and his wife her dower, ſaving in certain caſes, *Dal.* 234.

Judgment and condemnation of a woman in caſe of Treaſon, is to be drawn on a hurdle to execution, and burned, *Stam.* 182. *Dal.* 234.

Other matters of Treaſon, or malicious words of his Majeſty. See the Stat. 13 *Car.* 2. *ca.* 1.

Treaſurer.

" Treaſurer for relief of Gaols is to be " choſen at Eaſter Q. Seſſions by the more " part of the Juſtices of Peace, to be of 5 l. in " lands, or 10 l. in goods in the laſt ſubſidy, " to continue but for one year, and then to " give up his account at Eaſter Seſſions to " his ſucceſſor, 43 *El. c.* 2.

" The elected refuſing the office, or to " give relief or accompt, is to be fined by the " Juſtices in Seſſions, or by the Juſtices of " Aſſizes by diſcretion, but not under 3 l. " 43 *El. c.* 2.

" Treaſurer for Gaols is to pay over to " the Lord chief Juſtice and to the Knight " Marſhal quarterly ſuch ſummes as the Ju- " ſtices of Peace do appoint, 43 *El. c.* 2.

" Treaſurer for maimed ſouldiers is to be " elected by the more part of the Juſtices at " Eaſter-Seſſions, and (not being a Juſtice of " Peace) to be 10 l. in lands or 15 l. in goods " in the laſt Subſidy, to continue but one year, " and for refuſing the office, or miſdemeanors,

" &c.

"&c. to be fined by the more part of the Ju-
"stices, but not under 5 l. 43 *El. c.* 3. and to
"give up his accompt to his successor within
"ten daies after the Sessions.

"The Churchwardens are ten daies before
"every Qu. Sessions to pay over to the High-
"Constables the taxation for Gaols, 43 *El.*
"*c.* 2. And the Churchwardens and petty-
"Constable at the same time to pay to the
"High-Constable the tax for maimed Soul-
"diers, 43 *El. c.* 3. And the High-Constables
"are to pay the same to the Treasurers at the
"next Q. Sessions, 43 *El. c.* 2. & 3.

"If default of paiment be made by the
"High-Constable, he doth incur the penal-
"ties, *viz.* of 20 s. a time for the Gaol-mo-
"ney, 43 *El. c.* 2. and of 40 s. for Souldiers
"money, *c.* 3. And if default be in the
"Churchwardens, for Gaol-money 10. s. a
"time; if for Souldiers money, the Church-
"wardens, and petty-Constables lose 20 s.
"a time, 43 *El. c.* 2. & 3. The said forfeitures
"to be levied by the Treasurer by distress
"and sale of the offenders goods, and taken
"in augmentation of the stock.

Trespass, *vide* Hedge-breakers.

Trial.

As well Noblemen as Gentlemen in cases of Felony or Treason, or misprision of Treason, are to be tried by their equals, *Lam.* 539.

In Riots, Routs, unlawful assemblies and forcible entries, Nobility shall be tried by common Jurours, *Lam.* 539.

All

All Forrein Pleas triable by Jury, and pleaded by any indicted of Treason, Murder or Felony, shall be tried in the County where the party is arraigned, and by Jurours of that County, 22 *H.* 1. *c.* 14 32 *H.* 8. *c.* 3. *Lam.* 552.

Aliens indicted of Felony or Murder, must be tried *per medietatem linguæ*, *Lam.* 554.

Peer of the Realm indicted of Treasons upon the statute of 3 *Jac. c.* 4. is to be tried by his Peers, 3 *Jac. c.* 4.

All Treasons, misprision of Treasons, and concealment of Treason done or committed out of the Realm, shall be enquired and tried within the Realm, 35 *H.* 8. *c.* 2. *Dal.* 235. *Co. Litt.* 261. b.

"He who is no Lord of the Parliament, "being arraigned for Treason or Felony, "shall be tried by Knights and others, and not "by Lords of the Parliament. So shall Bi-"shops by reason that they are Lords of the "Parliament by their office, and not in re-"spect of their Nobility, *Cro.* 110. b. *nu.* 6. "*Stamf.* 143. a.

Turn of the Sheriff.

Indictment at the Sheriffs Turn to be certified to the Justices at the Qu. Sessions. *Vide* Certificate.

Sheriffs Turn to be holden within a month after Easter, or within the month after Michaelmas, *Lamb.* 504.

Estreats of the Justices of Peace of Fines assessed upon presentments in the Turn being inrolled and indented, are to be levied by the Sheriff

Sheriff to the uſe of him that was Sheriff at the time of preſentment, 1 *Ed.* 3. *c.* 7. *Lamb.* 585.

VAgabonds, *vide* Rogues.

Venire facias.

Juſtices of Peace may award a *Venire facias* againſt the enditour, to amend a Bill upon the firſt oath, *Iam.* 507. 8 *H.* 5. *c.* 8. *Stam.* 97.

Juſtices of Peace cannot award a *Venire facias tot matronas*, to know whether a felon be with child or no, *Lam.* 551.

Verdict.

"The Jury in caſe of felony may give a "ſpecial verdict, if they will, and the Court, "upon examination of the matter, may ad- "judge contrary to the verdict. As, The Ju- "ry found that *A.* killed *B. ſe defendendo*, "and upon examination of the matter, the "Court adjudged it to be man-ſlaughter, "againſt the verdict, *Cro.* 114. a. *nu.* 1.

"Though the Indictment ſpecifie the "goods to be above 12 d. yet the Jury may "ſay that the goods were worth but 8 d. "upon which verdict it ſhall be taken as "pety-larceny, *Cro.* 114. 2. *nu.* 2.

"A man is arraigned of murder, and by the "Jury it is found but man-ſlaughter, it is "good, *Cro.* 114. a. *nu.* 3.

Veſſels.

Veſſels.

Veſſels of ale and beer are to be made of ſeaſoned wood, with the mark of him that ſealed it, *Lam.* 460.

Every barrel for beer and every barrel for ale, and ſo every leſſer veſſel, by 32 *H.* 8. *cap.* 4. ought to contain under pain of 3 ſhill. 4 pence for each default,

Beer { Barrel 36. / Kilderkin 18. / Firkin 9. } Ale { 32 / 16 / 8 } Gallons.

But now by the ſtatute 1 *Jac. c.* 9. ale and beer ſhall be ſold by retail by one and the ſame meaſure, namely by the ale-quart, *Cro.* 94. b. *Dal.* 152.

Vide Aſſiſe of Bread and Beer.

Wine	Tun	252.	Gallons. *Dal.* 162.
Oyl	Pipe	126.	
	Hogſhead	63.	
	Barrel	32 and half	
Hony	Rundlet	16 and half	

But *Crompton* 49. b. ſaith, *Popham* chief Juſtice ſaith, that the meaſure of wine and ale ſhould be all one, and that ſo it was agreed by the Juſtices according to the ſtandard of the Exchequer. But note, ſaith *Crompton* there, that the ale-quart is greater, for that the froth of the ale amounts a little, and wine doth not froth, and therefore there ſhould be a nick in the top of the wooden kan, where the meaſure ſhould be, to which nick the ale ſhould come, *Cro.* 94. b. And ſo Maſter *Wallis* Clark of the Qu. market told him, January 25. 1588. Her-

Herring the barrel, half-barrel, firkin, shall be of the same content that ale is, namely the barrel 42 Gallons, &c. 13 *El. c.* 11. 11 *H.* 7. *c.* 23. *Dal.* 153.

Sope and Butter shall be of the same content with ale, and the empty barrel not to be in weight above 26 pound, and for the other vessels in proportion, 23 *H* 8. *c.* 4. *Dal.* 151. *Lam.* 461. The penalty is 3 shill. 4 pence for each one.

Victuals and Victuallers.

If Butcher, Fishmonger, Inholder, Tipler, Brewer, Baker, Poulterer, and other seller of victual, do sell at unreasonable rates, and not for moderate gain, they lose double value, *Lam.* 454. 23 *E.* 3. *c.* 6. & 13 *R.* 2. *c.* 8.

Brewer selling drink at higher prices then have been appointed by the Justices of Peace, loseth after the rate of 6 shill. a barrel, 23 *H.* 8. *c.* 4. *Lam.* 455.

Conspiracy or oath taken, or promise made by Butchers, Bakers, Brewers, Poulterers, Cooks, Fruiterers, or any mystery, or any of them, not to sell but at prices agreed between them, the first offence 10 pound, or 20 daies imprisonment; the second, 20 pound, or Pillory; the third, 40 pound, or lose an ear, 2 *Ed.* 6. *c.* 15. *Lam.* 455.

To sell swines flesh mezelled, or flesh that died of the murrain, or other corrupt victual, *Stat. de pistoribus, cap.* 7. 51 *H.* 3. *Lam.* 455. is fineable.

Any, except Victuallers in their houses, buy-

buying to ſell again by retail Butter or Cheeſe, unleſs it be in open Fair or Market, loſeth double value, 3 *Ed.6.cap.*21. 14 *Eliz. cap.*11. 27 *Eliz. cap.* 11. *Lam.*496. 1 *Jac. cap.* 25.

Proceſs upon the ſtatute of 23 *H.6. cap.*13. againſt victuallers is Attachment, *Capias*, and Exigent.

Brewer, or other ſelling of ale or beer unto any unlicenſed Alehouſe-keeper, other then for neceſſary proviſion for his own houſhold, loſeth after the rate of ſix ſhillings eight pence a barrel, one moiety to the poor, the other to the informer, to be heard and determined at the Quarter-Seſſions, 4 *Jac. c.*4. *Lam.*460.

The officer levying the penalty of 4 *Jac. cap.*4. and not delivering the moiety to the Churchwarden or Overſeers of the poor, or not diſtributing it within convenient time after receipt, forfeiteth the double to be recovered as the penalty, 4 *Jac.c.*4.

Victualler is within the ſtatute 1 *Jac. cap.* 9. 4 *Jac.c.*5. 1 *Car.c.*4.

Vide Tranſportation, Alehouſes, Tipling.

Under-Sheriff.

Cuſtos Rotulorum, or two Juſtices of the Peace, one to be of the Quorum, may give unto Underſheriffs before they exerciſe their office, the oaths of 1 *Eliz.* of Supremacy, and 27 *Eliz.c.*12. touching their office; ſo of their Deputies and Clarks, or any other medling with returning of writs, or execution of proceſs into

into any Court of record. So of Bailiffs, any of them executing their office before such oaths taken, lose 40 pound, 27 *El. ca.* 12. *Lam.*356,432,433.

Undersheriff or his Clark or deputy doing any thing against their oath, lose treble damages to the party, *Lam.*433.

Unlawful Games.

Every Justice of Peace may enter into any common place where any playing at dice, tables, cards bowls, coits, cails, tennis, casting the stone, footbal, or other unlawful Game now invented, and hereafter to be invented, shal be suspected to be used, and may arrest the keeper of every such place, and may imprison them until they find sureties by recognizance no longer to use such house, game, play, alley or place, 33 *H.*8.*c.*9. *Lam.*191. *Dal.*64. *Cro.* 79. a.131.a.196.a.197.b. *Lam.*349,479.

Justice of Peace may arrest and imprison such players till they be bound no more to play at such game, *Lam.*192. *Cro.* 172. a. b. *Lam.*349,479. *Dal.*63.

Artificer of any occupation, or any husbandman, apprentice, labourer, servant at husbandry, Journeyman, servant of artificer, mariner, fisherman, waterman or servingman, other then of a Nobleman, or of him that may dispend 100 l. by the year, playing within the precinct of his masters house, shall not play out of Christmas at any unlawful game, or in Christmas out of the house or presence of his master, 33 *H.*8.*c.*9. *Lam.*479.

20 shill.

20 ſhill. every time. *Quere* if other games beſides thoſe prohibited, 33 *H.*8.*c.*9. be unlawful, as the Morrice and other open dances, bear-baitings, common-plaies, and fencings, which ſeem to be prohibited by 39 *El. ca.*4. *Dal.* 63. 1 *Car. c.* 1.

All offences againſt the ſtatute of unlawful Games may be heard and determined at the Qu. Seſſions, Aſſiſes or Leet within which they ſhall happen, *Lam.*614. *Vide plus* Sunday.

Unlawful Aſſemblies.

An unlawful aſſembly is of the company of three or more perſons diſorderly coming together, forcibly to commit an unlawful act, as to beat a man, or enter upon his poſſeſſion, or the like, *Lam.*175. *Dal.*221. *P.R.*25. *Cro.* 61.*a. nu.*3.

Firſt, an unlawful aſſembly it is, only to meet to ſuch a purpoſe, though they willingly depart without doing any thing. Secondly, after meeting to move forward toward the executing of ſuch act, whether it be done or no, is a Rout. Thirdly, to execute ſuch a thing, is a Riot, *Dal. ibid. Lam.* 175, 176. *Cro.* 61. *a. nu.* 3.

In an unlawful aſſembly, Rout or Riot, two things are common, and muſt concur: firſt, that three perſons at leaſt be gathered together; ſecondly, that their being together, breed ſome apparent diſturbance of the Peace, either by ſpeech, ſhew of armour, turbulent geſture, or actual and expreſs violence to affright peaceable men, or imbolden light

and

and buſie bodies by their examples, *Lam.* 176, 177.

There be three degrees of ſeditious and rioteous aſſemblies: the firſt from three to twelve; the ſecond of twelve or more; the third of forty and upward, *Lam.* 183. 1 *El. c.* 17. Juſtice of Peace may at his diſcretion aſſemble ſubjects to take ſuch, and may take them, and ſhall be unpuniſhed for hurting, maiming, or killing them, if they make reſiſtance, *La.* 184.

Juſtice of Peace is to take the declaration of any perſon that (being moved to ſuch an aſſembly) will within 24 hours after reveal the ſame, *Lam. ibid.*

Vide Forcible Entry, Riots.

Uſury.

Corruptly to contract for more then 8 pound in the hundred, for forbearance for one year, loſeth treble value of the monies wares, merchandiſe and other things ſo lent, bargained, ſold, exchanged or ſhifted, 21 *Jac. cap.* 17.

Scriveners taking above five ſhillings for procuring 100 pound, and for a bond above 12 pence, forfeit 10 pound, *ib.*

Utlawry.

Offenders againſt the Peace for conſpiracies, and of Routs in preſence of the Juſtice, or in affary of the people, being indicted thereof, if they be not brought in by attachment or diſtreſs (for inſufficiency) are to be outlawed, 8 *Ed.* 3. *c.* 5. *Lam.* 522.

After

After Utlawry, the Justices of P. can award no process, but must certifie the Utlawry into the Kings Bench, *Lam* 521, 522.

One outlawed of felony before Justices of Peace doth appear, and saith, he was in the Kings service beyond Sea under such a Captain, or in prison in such a County; the Justices cannot write to the Captain or County, *Lam.* 552.

Wages.

RAtes of Wages of servants and labourers are to be made by the Justices of Peace at Easter Qu. Sessions, and by them to be ingrossed in parchment under their hands and seals, and after it shall be lawful for the Sheriff of the said Connty to cause proclamation to be made of the several rates so rated in so many places of their several authorities as to them shall seem convenient, and as if the same had been set down printed by the Lord Chancellour or Keeper, after declaration thereof to the Kings Majesty, and certificate thereof into the Chancery, 39 *El.c.*12. 1 *Jac. c.* 6.

Any giving wages contrary to the rates appointed and proclaimed, loseth 5 pound, 5 *El.c.*4. 1 *Jac.c.*6. *Lam.* 474.

Every Justice of Peace (not having lawful excuse testified by oath of one that is in subsidy 5 pound, &c.) that shall not assemble at Easter Sessions, or within 6 weeks after, to rate the

the wages of ſervants, &c. ſhall loſe 10 pound, 5 *Eliz. cap.* 4. *Lam.* 632.

Any having authority by 5 *Eliz. c.* 4. to rate wages, may rate the wages of labourers, weavers, ſpinſters, and of any working by day, week, moneth or year, or by great, 1 *Jac. cap.* 6.

No penalty for not certifying the rates of wages into the Chancery, according to the ſtatute of 5 *El. c.* 4. if they be duly proclaimed, 1 *Jac. c.* 6.

Rates of wages ingroſſed in parchment are to be kept by the *Cuſtos Rotulorum*; if in a Corporation, amongſt the records thereof, 1 *Jac. c.* 6.

Any two Juſtices of Peace may impriſon without bail the maſter for ten daies, for giving, and the ſervant, workman or labouter for 21 daies, for taking greater wages then are aſſeſſed by the Juſtices of Peace, and Proclamation thereof made in that County, 5 *El. c.* 4. *Dal.* 80. Every retainer, promiſe or payment of wages, or other thing whatſoever, contrary to the true meaning of 5 *El. c.* 4. and every writing and bond for that purpoſe is utterly void, *Dal.* 80.

Juſtice of Peace may have his action of debt againſt the Sheriff for his wages at the Seſſions, *Cro.* 177. a. *nu.* 23.

Juſtices of Peace ſhall be paid their wages out of the fines and amerciaments of the ſame Seſſions, and they ought to aſſeſs the fines in the Court, and then the Clark ſhall indent the eſtreates betwixt the Juſtices and the Sheriff,

riff, and the Juſtices ſhall put their names thereto, to the end the Sheriff may know to whom to pay wages, and levy the ſame to pay to the Juſtices, whereupon the Sheriff ſhall be allowed the ſame upon his accompt in the Exchequer, 14 *R.* 2. *c.* 11. *Lam.* 612. *Cro.* 177. a. *nu.* 30.

Wainlings.

Any killing any Wainling Calves under two years old to ſell, loſe 6 ſhill. 8 pence for every offence determinable at the Quarter Seſſions, 24 *H.* 8. *cap.* 9. 1 *Jac. cap.* 25. *Lamb.* 453, 607.

Wait-laying.

Lying in wait to maim or kill any other is to be fined, *Lam.* 446.

Warrants.

The Juſtice of Peace his command by word of mouth is in ſome caſes as ſtrong as his precept in writing, *Dal.* 336.

As,

A Juſtice of Peace ſeeing a Riot, may command the Rioters to be arreſted, and cauſe them to find ſureties for their good behaviour, *Dal.* 336.

So upon aſſray, aſſault, threatning, or any other breach of the Peace done in his preſence, he may command the officer being preſent to arreſt ſuch offenders to find ſurety for the peace, *Dal.* 336.

But

But for causes out of his presence one may not arrest another upon the Justices command, but by precept in writing, *Dal. ib. Br. Peace* 7.

A warrant in writing must be under the Justices hand and seal, or under his hand at least, *Dal.* 336. *Lam.* 85, 88. But it is better if under seal, *Dal.* 337.

A warrant for the peace or good behaviour must contain the special matter, *Dalton* 336. *Lam.* 87. but it is better under his Seal, *Dalt.* 337.

A warrant for treason, murder or felony, or other capital offence, and such like, need not contain the special cause, *Cro.* 148. a. *Dal.* 337.

A warrant is better if it contain and bear the date at the place where it is made, the year and day when it was made, *Cro.* 174. a. *Dal. ib. Lam.* 88.

Justice of Peace being out of the County, granteth his warrant to be served in the County; the officer must carry the party before some Justice of Peace within the County, *Dal. ibid. Lam.* 91.

"The County written in the margent of "the warrant, albeit it be not expressed in "the warrant, and *in Com. prædicto*, shall have "relation to the County set in the margent, "*Cro.* 102. b. *nu.* 29.

Justice of Peace may make his warrant to come before himself: yet upon a warrant for the Peace the usual manner is otherwise, *Co.* 5. 59. *Dal.* 170, & 338.

In some causes a Justice of Peace may

grant his warrant to attach the offender to be at the next Seſſions of the Peace, to anſwer his ſaid offence, *Dal.*338.

" Juſtice of Peace may grant his warrant " againſt one that hath broken the peace, or " committed miſdemeanors againſt the peace, " to find ſureties for the peace, or behaviour, " *Dal.* 34,162,165,338.

Juſtices of Peace in divers caſes (as the caſe ſhall require) may grant their warrant for the parties neglect, or other default: and ſuch warrant may be either to attach him to be at the next Seſſions, there to anſwer, &c. or to bring the offender before the ſaid Juſtices, or any other Juſtice, &c. who finding cauſe to bind him, may bind him to the next Seſſions to anſwer the ſaid default. *Vide Dal.* 338. & 160.

Where the ſtatute giveth authority to Juſtices of Peace to cauſe another to do a thing, they have power of congruity to grant their warrant to bring ſuch perſons before them, that ſo they may take order therein, *Dal.*338.

A Juſtice of Peace maketh a warrant beyond his authority, it is not diſputable by Conſtable or other inferiour officer, but muſt be obeyed, *Lam.* 65. *Dal.*8,242,342.

But if the Juſtice make a warrant to do a thing out of his juriſdiction, or in a caſe wherein he is not a Judge; if the officer execute the warrant, he is puniſhable, *Dal.*34. *Cro.*147.b. *Dal.*8. *Lam.*91,92.

Warrant for the Peace may be directed

any indifferent person by name, though he be not officer: yet it is better to a known officer, *Dal.* 340. *Cro.* 147. a. *Lam.* 88.

A sworn and known Officer need not to shew his warrant; but the servant of the Justice must shew it if it be required, *Dal. ibid. Lam.* 89. *Cro.* 148. a.

A warrant directed to the Constable and a stranger jointly and severally, and executed solely by the stranger, is good, *Cro.* 147. b. *Dal.* 340.

Warrant directed to two joyntly to arrest another, may be executed by one of them, *Dal.* 340. *Lam.* 89.

A Just. of P. may make his warrant to the Sheriff to attach one to bring him to the Sessions to find surety of the Peace, *Cro.* 136. a.

A warrant being directed by a Justice of Peace to the Sheriff, he may by word command any sworn or known officer under him without precept in writing, *Dal.* 340. *Lam.* 89.

If a Justice of Peace his warrant be directed to the Sheriff, Bailiff, Constable, Justices servant, or other to arrest one, such person must serve it himself, *Lam.* 89. *Dal.* 340.

He to whom any warrant shall be directed, must do it with all secrecy and speed, *Dal. ib.*

A known officer must, if he will not shew his warrant upon arrest, declare the contents of his warrant, *Co.* 6. 54. & 9. 68. *Dal.* 341.

Upon arrest in the Kings name, the party arrested ought to obey, *Dal. ibid.* for if he have not lawful warrant, the party grieved may have his action of false imprisonment, *Dal. ibid. Co.* 9. 68.

An officer arresting a man, doth afterwards procure a warrant; this is a wrongful arrest, *Dal.* 341. *Lam.* 90, 91.

The officer having a warrant for the peace, or good abearing, may break open the doors, *Dal.* 341. *Cro.* 170. b.

One is arrested, who upon promise to come again, is let go, and cometh not again; the officer cannot arrest him by force of his former warrant, except he prosecutes him with fresh suit, *Dal. ibid. Br. Faux impris.* 18.

An officer having a lawful warrant to arrest another, is resisted or assaulted by the party or any other person; the Officer may justifie the beating or hurting such person, *Dal.* 341. *Lam.* 92.

If any abuse the warrant, as by casting it in the dirt, or treading it under his feet, he shall be indicted and fined; for it is the King's process, *Dal.* 342. *Cro.* 149. *Quære*, whether he shall not be bound to his good behaviour, *Dal. ibid.*

Before that a Justice of Peace grant his warrant to arrest one for murder, robbery, or felony, it is meet to examine the party that requireth the warrant upon oath, and to bind him to give evidence at the next Gaol-delivery, *Dal.* 342.

" Justice of Peace is not to grant his war-

" ra-

"rant againſt an offender of a penal ſtatute "to appear at the Seſſions, unleſs it be ap- "pointed by ſtatute, but he ought firſt to be "indicted, *Lam.* 187. *Dal.* 339. *Cro.* 197. a. "*nu* 21.

"Juſtice of Peace cannot make a warrant "to arreſt a felon except he be indicted, *Cro.* "147. b. But *Dalton* argueth, that a Juſtice "of Peace may make ſuch a warrant, *Vide* "*Dal.* 339.

"One wrote to a Juſtice of Peace to ſend "him a Warrant with a blank, to inſert there- "in one whom he would attach for ſuſpition "of felony. The Juſtice did ſo: And for that "he ſent his Warrant with a blank, to put in "a name which he knew not, nor the matter, "before the making of the Warrant, he was "fined in the Star-Chamber, *Cro. Juriſd.* "34. a.

"All Warrants made in the Kings name, "ought to be directed To all Miniſters "as well within liberties as without, *Dal.* "355.

"Warrants may be made either 1. in the "name of the King; or 2. in the name of the "Juſtice; and either of them muſt be teſti- "fied by the Juſtice from whom they iſſue; "or 3. without ſtyle by the ſubſcription of "the Juſtice, *Dal.* 335.

To what Officers Warrants are to be directed by particular Statutes.

"To the Churchwardens, for negligent

comers to Church, to levy 12 d. 3 *Jac. c.* 4.

" To the Conſtable or Churchwardens " againſt an Alehouſe-keeper, to levy 10 s. " for ſuffering tipling, 1 *Jac. c.* 9.

" To levy 20 ſhill. for breaking the Aſſiſe, " 2 *Jac. c.* 9.

" For ſelling Ale without licence, 20 ſhill. " 3 *Car. cap.* 4.

" For tipling in an Alehouſe, 3 ſhill. four " pence, 1 *Jac. c.* 9.

" For abuſes on the Lords day, 1 *Car. c.* 1.

" For Carriers on the Lords day, 20 ſhill. " 3 *Car. c.* 1.

" Shewing boots to ſell on Sunday, 3 ſhil. " 4 pence, 1 *Jac. c.* 22.

" To the Conſtables, Churchwardens, or " Overſeers of the poor for ſwearing, 12 d. " 21 *Jac. cap.* 20.

" To the Conſtable or other inferiour of- " ficer for drunkenneſs, 5 ſhill. 4 *Jac. cap.* 5, 21 *Jac. c.* 7.

Warreners, *vide* Foreſters.

Watches.

Any Juſtice of Peace may cauſe night-watches to be kept for the arreſting of night-walkers and perſons ſuſpect, be they ſtrangers or others of evil fame, *Dal.* 144. 13 *E.* 1. *Stat. Winton. c.* 4.

Watch is to be kept yearly from Aſcenſion day till Michaelmas in every town, from ſun-ſetting to ſun-riſing, *Dal.* 144. *Lam.* 440.

All ſtrangers or perſons ſuſpected paſſing by

by the watching men, may be examined by them; and if there be cauſe of ſuſpition, they may ſtay them, and if they will not obey, may levy hue-and-cry, and may juſtifie to beat them, and may ſtock them till morning, and if they find no cauſe of ſuſpition, deliver them; but if they find cauſe, may deliver them to the Conſtable, to carry them before a Juſtice of Peace, *Dal.* 144, 300.

Any Juſtice of Peace may cauſe all night-walkers, ſtrangers, or other ſuſpected, eſpecially ſuch as ſleep in the day and walk in the night, to be arreſted, and ſuch as in the night haunt any houſe ſuſpected of bawdery, or uſe ſuſpicious company, or commit other outrages or miſdemeanours, and cauſe them to find ſureties for their good behaviour, *Dal.* 88. *Lym.* 118, 119.

No man is compelled to watch, unleſs he be an inhabitant in the Town, *Dal.* 145.

"Inhabitants are not compellable to watch "at the will of the Conſtable, but when his "turn cometh, *Dal. ibid.*

VVater-men.

Every Juſtice of Peace within the ſhire next adjoyning to the River of Thames within his juriſdiction, hath power upon complaint by the overſeers or rulers of the Water-men and Wherry-men, or two of them, or by the maſters of any ſuch ſervants, both to examine, hear and determine all offences againſt the ſtatute, and ſet at large him that ſhall be impriſoned by the overſeers and

rulers, if there be juſt cauſe, and alſo by his diſcretion to puniſh thoſe overſeers and rulers, that ſhall unjuſtly puniſh any perſon, 2 & 3 *Ph. & Mar. cap. 16. Iam.* 203. *Dal.* 145.

The offences againſt the Statute are,

1. No ſingle man ſhall be a Waterman, 8 *Jac. c.* 16.

2. One of the two rowing in one Boat muſt be allowed by eight of the overſeers by writing under ſeal.

3. They ſhall not hide themſelves in time of preſſing for the Kings ſervice.

4. They ſhall not take for their fare above the price aſſeſſed, and ſet up in Tables in *Weſtminſter*-Hall, *Dal.* ſaith, *quære* whether the Juſtices of Peace be to meddle with this.

Wax.

One Juſtice of Peace may examine and ſearch by his diſcretion ſuch as do ſell any candles, or work of wax above four pence in the pound clear gain over the price of the Wax, and puniſh them by forfeiture of that which is be ſold, and the value of that which is ſold, and fine to the King, *Dal.* 145. *Lam.* 196, 469. 11 *H. 6. c.* 12.

Weapons which be forcible, *Vide* Forcible Entry.

Weers.

Weers in Rivers may be ſurveyed by one Juſtice of Peace, which he may cauſe to be made

made of a reaſonable wideneſs, *Lam.* 189.

Any making Weers within five miles of the mouth of the haven or creek, or by weers deſtroying any fry of fiſh of the Sea, loſeth 10 pound, one moiety to the King, the other to the informer, 3 *Jac. cap.* 12. *Dal.* 56. explaineth the particulars of that ſtat. of 3 *Jac. c.* 12.

Weights and Meaſures.

Faults of the Officers of Cities and Boroughs in not viewing and examining weights and meaſures twice a year, to be heard and determined by examination and enquiry of two Juſtices of Peace, one being of the Quorum, and by them to be fined and amerced; and ſo of faults of buyers and ſellers by other weights and meaſures then they ought to do, 11 *H.7.c.*4. 12 *H.7.c.*5. *Lam.*356. *Dal.* 146.

Two Juſtices of the Peace (one of the Quorum) may break and burn ſuch meaſures as they find defective, and fine the offenders by their diſcretion, and make proceſs againſt them as in treſpaſs, 12 *H.7.c.*5. *Lam.* 356. *Dal.*146. 11 *H.7.c.*4.

Mayors of Towns taking above a penny for ſealing a buſhel, or other meaſure, or for weights above a penny for an hundred, an half-penny for half an hundred, a farthing for a leſs weight, loſe 40 s. 11 *H.7.c.*4. *Lam.* 437. *Dal.*255. 7 *H.7 c.*3.

Buying and ſelling by unlawful weights or meaſures, or in any City or Market, with

any Weights or Measures that are not lawfully marked or signed, he loseth for the first offence 6 shillings 8 pence, for the second offence 13 shillings 4 pence, and for the third 20 shillings and Pillory, 11 *H.7. ca.4. Lam.* 460.

To buy corn by heaped measure, except on shipboard, or to use double measure, the one to buy, the other to sell with; the first offence is 6 shillings 8 pence, the second 13 shillings 4 pence, the third 20 shillings and Pillory, 11 *H.7. c.4. Lam.*460. 15 *R.2.c.4. Stat. de pistoribus c.* 8.

Those of the Town where the Kings Standard is appointed to remain, not having common weights and measures signed, or not selling by the same to all that have required the same, are to be fined and amerced, 11 *H. 7.c.4. Lam.*460. *Dal.*155. *Vide plus* Vessels.

Every Justice of the Peace may examine and convict offenders against the Statute of King *Charles* the first concerning weights and measure, and levy the penalty of 5 *s.* for every offence by distress and sale of the offenders Goods, to the use of the poor of the Parish where such offence is committed, and for want of goods, imprisonment, 17 *Car. ca.*19.

VVitchcraft.

Invocation, Conjuration, Consultation, covenant, entertainment, imployment, feeding or rewarding any evil spirit, taking up of dead bodies, or any part thereof, to be employed in Witchcraft or Charms, or using any

any manner of Witchcraft whereby any perſon ſhall be killed, or any part of them waſted or lamed, and alſo the acceſſaries, is felony without Clergy, 1 *Jac. c.* 12. *Lam.* 415. *Dal.* 280.

By Witchcraft or Charms to find out hidden treaſures, to tell where loſt goods ſhall be found, to provoke unlawful love, to deſtroy or hurt any mans body, or to attempt any of them, the firſt offence is one years impriſonment without bail, and to ſtand in the Pillory ſix hours every quarter of the ſame year, and confeſs his offence; the ſecond is felony without Clergy, 1 *Jac. c* 12. *Lam.* 415.

Trial of Noblemen upon the Statute of 1 *Jac. c.* 12. of Witchcraft, is to be by his Peers, *Lam.* 415.

Attainder upon the Statute 1 *Jac. cap.* 12. of Witchcraft, neither loſs of Dower, nor corruption of Blood, 1 *Jac. c.* 12. *Lam. ibid.*

W Wines.

Wines brought in ſtrange bottomes from *France* into any part of *England*, except the Ile of *Man* and *Wales*, forfeit the Wines, 27 *El. c.* 12. *Lam.* 457.

Any licenced to retail wine, ſelling above the prices limitted by Proclamation, loſe 3 *s.* 4 *d.* for every Gallon, 27 *El. c.* 11. *Lam.* 458. 5 *El. cap.* 5.

Any under a Barons Son, or under 100 marks a year, or 1000 marks in goods, keeping to ſpend in his houſe any veſſels of *Gaſcoign* wine, *French* or *Rochel* wine, above ten gallons, loſeth 10 pounds, 7 *E.* 6. *cap.* 5. *Lam.* 458.

Wood

Woad.

Woad brought from *France* into any part of *England*, except the Ile of *Man* and *Wales* in a ſtrange bottome, forfeiteth the Woad, 27 *El. c.* 11. *Lam.* 497, 458.

Wood.

Upon complaint of the Lord, and diſagreement of the Lord and his Commoners, the fourth part of the Lords wood may be ſet forth by two Juſtices, appointed by the greateſt part of the Juſtices at their Seſſions, and not being of kindred or alliance, or fee to the Lord, 35 *H.* 8. *c.* 17. 13 *El. c.* 25. *Lam.* 359.

Juſt. in Qu. Seſſions may call before them the owner of the wood, and 12 of the Commoners to ſet out the fourth part, *Lam.* 609.

Ingroſſer or Regrater of Bark, forfeiteth the Bark, 1 *Jac.* 22. *Lam.* 452.

Any ſelling of Oaks meet to be barked, before *April*, or after *June*, except for neceſſary building, as repairing of houſes, ſhips, mills, loſe the Oak, or double value, 1 *Jac. c.* 22.

Purveyors taking Timber for the repair of the Kings ſhips or houſes, the owner may retain all the Barks lop and top, and the Purveyor taking them, loſeth for every tree 40 ſhillings to the party grieved, 1 *Jac.* 22. *Lam.* 458.

Vide the Stat. 43 *El.* Any one Juſtice of the Peace may cauſe perſons to be apprehended that are ſeen or ſuſpected for having carrying or conveying any burden of wood poles, young

young Trees, back baſt of Trees, Gates, Stiles, Poſts, Pales, Railes, Hed-gwood, Broome or Furzes; and cauſe them to be whipt, or otherwiſe puniſhed according to the ſtatute of 35 *Car.* 2. *ca.* 2. *ſtat.* 3. but none to be queſtioned upon this Act, unleſs within ſix weeks after the offence committed.

Wooll and Wooll-feller.

Buyer of Wooll of any other then the Owner of the ſheep or tithe, loſe the value, 14 *R.* 2. *c.* 4. *Lam.* 452.

Woollen-yarn.

Buyer of Woollen-yarn, and not making it into cloth, loſeth the value thereof, 8 *H.* 6. 5. *Lam.* 452.

Any ſorter, carder, kember, ſpinſter or weaver, receiving wooll and yarn of any clothier or maker of ſtuff, and embezelling, ſelling, or detaining the ſame, and the Receiver or buyer knowing thereof, upon conviction, by confeſſion or oath of one witneſs before two Juſtices of Peace, is to make ſuch recompence to the party, as the Juſt. ſhall appoint: and the offender being unable, and refuſing to do it, is to be whipt or ſtocked, 7 *Jac.* 7. *cap.* 7.

Women.

Women arraigned for felony, may only for one time have the benefit of their belly, *Lam.* 563.

Juſtice

Justice of Peace cannot award a *Venire fac. tot matronas*, to know whether a Woman felon be with child. *Lam.* 551.

Taking away a woman against her will, that hath land, &c. or is heir apparent, not claiming her as ward, and after marry or deflour her, is felony without Clergy. So of the procurers, abetters, and receivers knowing thereof. 3 *H.* 7. *c.* 2. *Lam.* 421.

A woman being delivered of a Bastard-child, and born alive, that endeavoureth privately by drowning, secret burning, or other way by her self, or procuring of others to conceal the death thereof, as that it may not come to light whether it were born alive or dead, shall suffer as in murder, except she can prove by one witness that the child was born dead. 21 *Jac.* 27.

Women convicted of felonious taking above 12 d. and under 10 s. being not Burglary or Robbery in or near any high-way, nor taking of money, goods, or chattels from the person of any, privily or as accessary to any such offence, wherein a man may have his Clergy, shall for the first offence be burned in the hand, and further imprisoned, whipped, and stocked, or sent to the house of Correction (not above a year) as the Justices before whom the conviction is, shall think meet. 21 *Jac.* 6. *Dal* 272, 273.

Wife and her husband are bound to appear at the Sessions, and in the mean time to keep the peace. The husband only appearing, the Recognizance is not forfeited, *Dal*, 179. *Quære tamen*, *Cro.* 144. b.

Reso-

Resolutions of the Judges of Assises, 1633.

1. *Question.*

WHether the Churchwardens and Overseers of the poor of a Parish with assent of two Justices of the Peace, one being of the Quorum, may by the Statute of 43 *El. c.* 2. or any Law enforce a Parishioner of the same Parish, to take a child of a poor Parishioner of the same Parish, who is not able to keep his said child, to be an apprentice?

Resolv. The Statute of 43 of *Elizabeth*, which saith, that the Churchwardens and Overseers of the Parish shall put out children to be apprentices, necessarily implyeth, that such as are fit must receive Apprentices, and the putting out of poor children to be Apprentices, is one of the best wayes for the providing for the poor.

2. Q. If they may, then whether they must not give money with him; and who shall determine what money shall be given with him, if the party that is to take such an Apprentice, and the Churchwardens, and Overseers cannot agree thereupon?

Res. There is no necessity that money must be given, but that must be left to the discretion of the Churchwardens and Overseers, all circumstances of age and ability being considered, and if they cannot agree with the party, then the Justices of Peace near adjoyning, or in their default, the Sessions of Peace are to determine these Controversies.

3. Qu. ſt.

3 Q. Whether a Knight, Gentleman, Clergy-man, or Yeoman, or one that is Sojourner, using husbandry, cloathing, or grasing, or the like, may be enforced to take such an Apprentice?

Resol. Every man who is by calling or profession or manner of living, that entertaineth, and must have the use of other servants of the like quality, must entertain such apprentices, wherein discretion must be given upon due consideration of circumstances.

4 Q. Whether a wealthy man keeping few or no servants, not wanting a servant, but living privately may be enforced to take such an apprentice; if not, then whether he may be taxed towards the putting forth of such an apprentice?

Resol. For the receiving of such apprentices, the answer may be referred to the question next before; but out of doubt every such person must contribute to the charge, as to other charges for the provision for the poor.

5 Q. Whether they may enforce a Parishioner that is of one Parish, to take such a child apprentice, that is of another Parish, but within the same County or division, if the proper Parish be not able to provide for the children of the same Parish?

Resol. The Justices may provide Masters for them in other Parishes within the same Hundred; if the same Hundred be not able, then out of that Hundred in the rest of that County, as for other provision for the poor, which must be at a Quarter-Sessions.

6 Q. If

6 Q. If such a Parishioner may be enforced to take such an apprentice, and shall refuse not only to take such an apprentice, but also refuse to be bound to appear at the next Quarter-Sessions, or Assises, what shall be done to him?

Resol. If any refuse; let such a one be bound over to the next Sessions or Assises; if he refuse to give such bond, let him be sent to the Gaol, there to remain untill he will give such bond.

7 Q. If such a Parishioner who refuseth to take such an apprentice shall be bound over to the Sessions for not taking such an apprentice, and when he appeareth there, shall likewise refuse, what shall be done to him, and what shall be done to the parents who refuse to suffer their children to be put out to be apprentices, themselves not being able to maintain them?

Resol. If at the Sessions or Assises such a one refuseth to take an apprentice, and his excuse be not allowed, it is fit he be bound to the good behaviour, and it will be a good course to indict such a refuser for a contempt, and thereupon to fine and imprison him; if he refuse to be bound to the good behaviour, let him be imprisoned untill he will; and the Kings books of orders directs that such be bound with good sureties to appear at the Councel-board; and if the Parents of such poor childred refuse to suffer their children to be bound apprentices, or being bound, entice them away, themselves not being able to maintain

maintain them, let them be committed to the house of correction.

8. Q. Whether it be in the power of any general Quarter-Sessions to mitigate any penalty upon a Statute law; if the party indicted shall submit himself to the fine of the Court, and wave the traverse?

Resol. If the party be convicted, or confess the fault, it is not in the power of the Court to mitigate the fine, in such cases where the Statute makes it certain: but if the party indicted protesting his innocency, yet *quia noluit plitare cum domino Rege* puts himself up into the grace of the Court, the Court may impose a moderate fine, and order to forbear the prosecution.

9. Q. If any be bound to appear at the Sessions, and shall tender submission to the Court, whether the Sessions may stay the indictment, and mitigate the fine aforesaid upon the confession of the fact?

Res. This is answered before to the next precedent Article.

10. Q. If a man be convicted for being drunk, tipling, and keeping an unlicensed Alehouse, or being licensed, for suffering others to remain tipling in his house, or for swearing or driving Cattel upon a Sunday contrary to the Statute in that case provided, whether the Justice of Peace before whom he was convicted, or any other Justice of the Peace may discharge him of all or part of the Forfeiture or punishment appointed by the Statute?

Resol.

Resol. The Justices have no such power of mitigation after conviction, where the statute appoints the measure of the punishment.

11. Q. Whether a Constable may upon a warrant for carrying one to the house of Correction for keeping an unlicensed Alehouse, upon the second conviction break open the house wherein the party convicted is, to apprehend him?

Resol. This question is to be advised upon, it is put in general terms, and referred to be considered in the particular where it appeareth.

12. Q. If a woman unmarried be hired from week to week, or from half year to half year, in one Parish, and there be gotten with child, and then goeth from thence unto another Parish, where she is setled in service by the space of two or three months, and then discovered that she is with child; The question is, whether she shall be setled in the Parish where she was begotten with child, or in the Parish where she was last setled?

Resol. The place where such a woman was lawfully setled, is the direction in this case, not where she was begotten with child.

13. Q. If a woman servant unmarried be begotten with child, and then goeth out of her Mistres service, before or after it is discovered that she is with child, and the reputed father be run away, or is not able to free the Parish: whether the Master may be enforced to provide for her till she be delivered, and for a month after?

Resol.

Resol. If the Master hath legally discharged his house of such a servant, he is no more bound to provide for her then any other.

14 Q. In case a Parish consist part of ancient *Demsn* and part of *Guildable*, an Assise is made for their relief of the maimed Souldiers, the Gaol, &c. according to the stat. of 24 *Eliz. c.* 2. whether the tenants in ancient Demesn shall contribute with the Guildable for the payment of the Assise?

Resol. The Statute doth not distinguish between the ancient Demesn and the Guildable in these cases, *ubi lex non distinguit ibi nec nos distinguimus.*

15 Q. Whether an Indictment of forcible detainer be within the Statute of 1 *Jac. ca.* 8. and not to be removed by *Certiorari*, unless the party indicted first find sureties according to that Statute, and whether the party indicted be to be bound in his absence to prosecute according to that Statute, and whether an indictment of forcibly entry, &c. found at a private Sessions be to be removed by *Certiorari* without sureties, according to that Statute?

Resol. This is fittest to be left unto the Court of Kings-Bench, to whose Commission and jurisdiction this is most proper.

16 Q. If one be convicted upon the Statute of 3 *Car. R. cap.* 13. for driving of Cattel on the Sunday through several Parishes; whether he forfeit 20 shill. to every of the said Parishes; or only to one: if to one, then to which of them?

Resol. This Statute giveth the forfeiture but

but to one 20 shill. for one Sabbath day. Although the driving of that day be through divers Parishes. Therefore where the action is first attached, and the distress first taken, that Parish shall have the benefit of the forfeiture, and not the other.

17 Q. If one who is under the age of 30 years, and brought up in husbandry, or a maid-servant, or brought up in any of the Arts or trades mentioned in the Statute of 5 *Eliz. ca.* 4. and not enabled according to that Statute, to live at his or her own hand, shall be warned by two Justices of the Peace to put him or her self in service by a day prescribed by them, and shall not do the same accordingly, but shall after continue living at his or her own hand, what course shall be taken with such a person, and how punished?

Resol. Such persons being out of service, and not having visible means of their own, to maintain themselves without their labour, and refusing to serve as an hired servant by the year, may be bound over to the next Sessions or Assises, and to be of the good behaviour in the mean time, or may be sent to the house of Correction.

18. Q. Whether the tax for the relief of the poor, upon the Stat. of 43 *Eliz.* shall be made by ability or occupation of Lands, or both, or whether the visible ability in the Parish where he lives, or general ability whersoever, and whether his rent received within the Parish where he lives shall be accompted visible ability, and whether he shall

be

be taxed of them only, and for any Rents received from other Parishioners; and what shall be said visible ability?

Resol. The land within each Parish is to be taxed to the charges in the first place equally and indifferently, but there may be an addition for the personal visible ability of the parishioner within that parish according to good discretion, wherein if there be any mistaking, the Sessions, &c. or the Justice must judg between them.

19. Q. Whether shops, salt-pits, sheds, profits of a Market, &c. be taxable to the poor as well as lands, Cole-mines, &c. expressed in the Statute 43 *Eliz.*

Resol. All things which are real, and a yearly revenue must be taxed to the poor.

20. Q. Whether the tax for the County stock, gaol, and house of Correction is to be made by the Stat. of 14 *El. c.* 43. by ability, and upon the inhabitants of the parish only, or upon them, or the occupiers of lands, dwelling in that Parish: or whether such as occupy lands in that Parish, and dwell in another Parish shall be taxed?

Resol. If the Statute in particular cases give no special direction, it is good discretion to go according to the rate of taxation for the poor: but when the Statutes themselves give directions, follow that.

21. Q. Whether any taxes ought to be made for the charges that petty-Constables and Borsholders are at in conveying rogues from Parish to Parish, and relieving of them, and how to be rated? *Resol.*

Resol. It is fit to relieve the Constable and Tything-men, in such sort as it hath been used in the several places where they live.

22. Q. Whether a Justice of Peace may discharge a servant being with child from her service, allowing that as a reasonable cause that she is thereby made unable to do the service which otherwise she might have done, and if he may discharge her, whether that Parish shall provide for her till her delivery, if she cannot provide for her self; and so also if her time be expired before her delivery, who shall provide for her after her time ended?

Resol. If a woman being with child procure her self to be retained with a master who knoweth nothing thereof, is a good cause to discharge her from his service. And if she be begotten with child during her service, it is all one, but the master in neither case must turn away such a servant of his own authority. But if her term be ended, or she lawfully discharged, the Master is not bound to provide for her, but it is a misfortune faln upon the Parish, which they must bear, as in other cases of casual impotency.

23 Q. Whether being delivered of a Bastard-child in one Parish, and goeth into another with her child; and becomes vagrant, and so is sent to the place of her birth: her bastard-child being under the age of seven years, shall be setled with the mother, and there maintained if the mother be not able,

nor

nor the reputed father known, found, or whether it shall be send to the place of its birth, or being setled with the mother, whether the Parish where it was born shall be ordered by the two next Justices to pay a weekly sum towards the maintenance of it?

Resol. The Bastard-child must be placed with the mother, so long as it is within the quality or condition of a Nurse-child, which shall be till seven years of age; and then it is fit to be sent to the place of its birth to be provided for, the mother or reputed father not being able. And the Parish where the child is born shall not be forced to contribute to the charge, as long as mother lives, and the child be under seven year old.

24 Q. A man with his wife and children takes an house in one Parish for a year; and before the end of his term is unlawfully put out of possession, and after taketh part of an house as an inmate in another Parish, from whence he is also put out, and then not being able to get any dwelling, they come to lye in a Barn in a third Parish where the husband falleth sick, and the wife is delivered of another child, where ought these to be setled?

Resol. If a man or woman having house or habitation in one Parish be thrust out, this is an illegal unsetling, which the Law forbiddeth, for none must be enforced to turn Vagrant, and such a one must be returned to the place where he or she was last lawfully setled, and the child also born in the time of this distraction.

25 Q. Whe-

25 Q. Whether an apprentice put out by the Churchwardens, &c. according to the Statute, to a Master in another Parish, if his Master die and leave no Executor or Administrator fit to keep an apprentice, or able to place him: He shall be provided for in the Parish where he was apprentice, or shall be sent back to the Parish from whence he was put out?

Resol. Servants and apprentices are by law setled in that Parish, and if they become impotent there, the Parish must abide the adventure after their term or time of service be lawfully ended.

26 Q. What is accounted a lawful setling in a Parish, and what not?

Resol. This is too general a question to receive a perfect answer to every particular case which may happen: but generally this is to be observed, that the law unsetleth none who are lawfully setled; nor permits it to be done by practice, or compulsion, and every one who is setled is a native housholder, sojourner, an apprentice or servant for a month at the least, without a just complaint made to remove him or her, shall be held to be setled.

27 Q. A Rogue is taken at *C*, and will not confess the place of his birth; neither doth it appear otherwise, but that he confesseth the last place of his habitation to be *S*, hereupon he is whipped and sent to *S*, but coming to *S*, the place of his birth, is not known by some to be at *W*, and there-

upon the Rogue confesseth it to be so: whether he might without any new vagrancy be sent to *W*?

Resol. In this case it is fit to send such a Rogue to the place of his birth; for this is but a mistaking, and no legal setling.

28 Q. If an indictment be preferred to the grand Jury of the quarter-Sessions of the Peace against one for murder, manslaughter, for robbery, felony, or pety-larceny, and ignoramus found thereupon whether the said Sessions may deliver the party by Proclamation or not?

Resol. Not by Proclamation at all, but for pety-larcenies, and other pety-felonies, in discretion the Gaol may be delivered of them.

29 Q. If a Constable be chosen, and refuseth to take his Oath; what shall be done and whether a Constable may make a deputy and by what means?

Resol. The refusal or neglect to take Oath in such a case is a contempt worthy of punishment, and thereupon to fine and imprison him; and the making of a deputy is rather by toleration, then by law.

30 Q. If a Constable die, or remove out of the Parish where, &c. how is his place to be supplied?

Resol. By the Lord of the Leet, if that time fall near, otherwise by the Sessions, but if that be too far off, then by the next Justice.

31 Q. If a poor weak man be chosen Constable or Tythingman, and be unfit for

the same place, how may he be removed, and a fit man sworn in his room?

Resol. The Justices of Peace must help this, and if the Lord of the Leet have power to choose a Constable or Tythingman, and perform so ill, it is a just cause to seize his liberty.

32 Q. If a Nurse-child, a Schollar at a Grammar-School, or in the University, prove to be impotent by sickness, lameness, lunacy, or discovery of ideocy, &c. how such persons shall be disposed?

Resol. A Nurse-child, or Schollar at the Grammar-School, or at the University, or persons sent to the Common-gaol, Hospital, or Houses of Correction, are not to be esteemed as persons to be setled there, no more then Travellers in their Innes, but their setling is where their parents are setled; and children born in Common-gaols, and houses of Correction, their parents being prisoners, are to be maintained at the charge of the County.

33 Q. What proportion Parsonages, or Tythes shall bear to the taxation of the poor of the Parish?

Resol. The Parson or Vicar presentative, shall according to the reasonable value of his Parsonage, having consideration to the just deductions.

34 Q. Whether for placing the poor of the parish, not to be removed by consent of the parish, these poor men may not be placed as Inmates for that time?

Resol. They may by express words of the

Statute of the 43 of *Elizabeth*.

35 Q. If a Parishioner or owner within a Parish, do bring into the Parish without the consent of the Parish, a stranger of another Parish, which is, or apparently is like to be burthensome unto the Parish, how they may ease themselves.

Resol. By taking such a one to the charge of the rates of the poor, not only having respect to his ability or the land he occupies, but according to the damage and danger he bringeth to the Parish by his folly.

36 Q. For warding in the day-time for apprehending of Rogues, whether the Constable may not enlarge it to a farther time?

Resol. Warding in the day-time is of great use, and must be left to the discretion of the Constables, or direction of the Justices to vary according to the occasion.

37 Q. Whether Alehouses ought to be allowed only in thorowfare Towns, and others in other places to be restrained only to sell to the poor out of doors.

Resol. The Justices shall do very well to allow none but in places very fit for their scituation and uses, and to moderate the number.

38 Q. A man for his quality otherwise fit to be a Constable, or of other Officer of that nature, procures himself to be the Kings servant extraordinary, and by that means would excuse himself to serve in the County?

Resol. A servant extraordinary may well perform his ordinary service in the Country according to his quality.

The

The Justices opinion touching the Commissions by which the Justices sit at Newgate.

THE Justices of Newgate sit by vertue of two Commissions, *viz.* Gaol-delivery, and Oyer and Determiner.

By the Commission of Gaol-delivery they may try all Prisoners in the Gaol, or by Bail, or such as be indicted will render themselves, generally for all Felonies: and also for such other offences as are particularly assigned to them by Statute.

The Statute of 4 *Eliz. cap.* 2. doth give them power to receive Indictments against Prisoners or such as are upon bail, and to proceed to try the same, *viz.* Indictments taken before the Justices of the Peace, and by equity thereof all Indictments before Coroners, 3 *Mar. Bro. Commission. omnium* 24. saith, That the Commission is *ad deliberand. Gaol. de prison. in eisdem existen.* But they cannot take Indictments as Justices of Gaol-delivery, but being Justices of the Peace, they may take Indictments against Prisoners, but not against them that be at large: for as much as power is given them, consequently they must have means to do so, which is by Indictments. *Id. quærend.*

Howsoever it is clear, that they may enquire of many offences, and take Indictments in such cases where power by the Statute is

given to the Justices of Gaol-delivery, in such cases where they have authority by Law or Statute, there the title of Indictments is, that *Ad gaolam deliberationem tent.* before the Commissioners of Gaol-delivery, *I. S.* was indicted, and the record must be made up so.

And whereas by the Statute of 4 *Eliz. cap.* 2. Indictments taken before Justices of Peace or Coroners, or any other against any Prisoners, then the entry of the Indictments is returned taken, *Memorand. quod ad generalem Sessionem tent.* before *A. B. C.* Justices *ad pacem in Com. Middlesex* or *London*, *I. S.* was indicted, and then tried before Justices of Gaol-delivery, and by vertue of the said Statute, Indictments taken before Justices of the Peace of *London* or *Middlesex*, are tried before the Justices of Gaol-delivery.

The Commissioners of Oyer and Terminer is, *Ad triand. inquirend. audiend. & determinand.* They may enquire of all offences mentioned in the Commission, albeit the offenders be at large, but they cannot try Prisoners upon Indictments taken before any other then themselves, as the Justices of Gaol-delivery may by the aforesaid Statute, unless there be a special Commission made, as it was in the case of the Earl of *Leicester*, mentioned in *Plow. Com.* for the ordinary Commission of Oyer and Terminer is *ad inquirend. audiend. & determinand.* therefore they cannot determine of things, unless they made enquiry first, and on the other side also, the Justices of Gaol delivery may try Indict-

ments

ments taken before Justices of the Peace, yet if one be indicted before Commissioners of Oyer and Terminer, the Justices of Gaol-delivery cannot try the same, because the Records of the Commission of Oyer and Terminer are to be returned into the Kings Bench, 44 E. 3. 31.

The Commission and the Records of the proceedings before the Justices of Gaol-delivery, are to be returned to the *Custos Rotulor.* of the County, when the same persons are Justices of Gaol-delivery, and of Oyer and Terminer, they may sit the same day and place, and enquire by the same Jury, but the entry of the Records must be several, according as the Indictment is.

At the Assises in the County, the Justices have their several power as the Justices of Gaol-delivery, Oyer and Terminer, and Justices of Peace.

But when the Records are made up, they must be according to the power they made election to proceed upon.

This is the regular and legal course. But the Clarks of the Assises promiscuously make entry thereof; but if a Writ of Errour be brought, they must certifie according to Law, or else it will be erroneous, and so upon a *Certiorari.*

The Sessions of *London* may be begun at the Guild-hall, and then adjourned to Newgate, If some Indictments be at Guild-hall, then those must be so certified: if others at Newgate, then the adjournment must be

mentioned, and that the Indictment was then taken.

Note that the trial of Indictments taken before Justices of the Peace of *London*, cannot be tried at Newgate, as in nature of a trial before Justices of the Peace at *London*, for many of the Commissioners for Gaol-delivery, are not Justices of the Peace for *London*, but in such cases the trial must be before the Justices of Gaol-delivery: as upon Indictments taken before the Justices of the Peace of *London*; as in the case of Indictments taken before the Justices of the Peace of Middlesex.

But if Indictments at Newgate be originally taken before them, as Justices of Gaol-delivery, then it is inquirable how the Jury sworn, and impannelled to enquire at the Sessions of the Peace for *London* or *Middlesex*, do serve to present Indictments before the Justices of Gaol-delivery at Newgate, unless the custome and usage will warrant the two several Juries, sworn at the Sessions of the Peace for *London* or *Middlesex*, are also by the same Oath and impannelling to serve for the grand Jury for the Commission of Gaol-delivery, and Oyer and Terminer.

Upon conference with Mr. *Keling*, and the Clarks for Newgate of *London* and *Middlesex*, and the Clarks of Assises, and view of the several Entries, a more mature and certain resolution may be given, this being in haste, and without such considerations as were requisite.

A Compendious Charge to be given at the Quarter-Sessions.

FOR as much as the Government of this Kingdom consists of two parts, *viz.* first in Laws Ecclesiastical for the peace of the Church, and Laws Civil or Temporal for the peace of the Land, it is not unfit to lay a foundation by taking notice of that excellent Law made *anno* 3 *Ed.* 1. which is, First of all the King willeth and commandeth that the peace of the holy Church, and of the Land be kept and maintained in all points; and that common right and justice be done to all as well poor as rich, without respect of persons: And there is another excellent expression in an Act of Parliament made 32 *H.* 8. *cap.* 9. *viz.* There is nothing which in this Realm that conserves the Subjects in more quietness, rest, peace, and good concord, then due administration of Laws; and those Laws which are here proper for your inquiry, and our administration at this time are first such as be made against offences touching Religion.

The Articles of the Charge:

Popes Supremacy.

The affirming or defending by any advised act the Popes Ecclesiastical Jurisdiction

in any of the Kings Dominions, the first offence is *Præmunire*, the second offence is Treason, 5 *Eliz.* 1. & 1 *Eliz.* 1. the third offence high Treason, *ibid.*

Refuse Oath of Supremacy.

The refusing to take the Oath of Supremacy upon any lawful request, the first offence is *Præmunire*, and the second is Treason, 1 *El.* 1. 5 *Eliz.* 1.

Oath of Allegiance.

The refusing the Oath of Allegiance by any person above 18 years of age it is *Præmunire*, stat. 7 *Jac.* 6.

Seducing any from their obedience.

The practising to withdraw any of his Majesties Subjects from their obedience, and for that intent from their Religion to the Romish, is Treason, 23 *Eliz.* 1.

Concealing such offences.

The aiding or concealing such offenders for 40 daies, and not disclosing it to some Justice of Peace, is misprision of Treason, stat. 23 *Eliz.* 1.

Saying or hearing Mass.

If any shall say or hear Mass, for the first offence forfeits 100 Marks, and for the second offence 200 Marks and one years imprisonment.

Agnus Dei, Popes Bull, &c.

The bringing into the Kingdome, or using any Bull, *Agnus Dei*, gotten from the Bishop of *Rome*, or other superstitious thing, or offer the same to any person to be used; or the absolving or counselling his Majesties Subjects to

to the uſe of them, or concealing or countenancing any ſuch offender, firſt offence is *Præmunire*, ſecond offence is Treaſon, 13 *Eliz.* 2. 23 *Eliz.*

Jeſuit, Prieſt.

The harbouring or aiding any Jeſuit, Prieſt, or Deacon, ordained by authority from the See of *Rome*, knowing him to be ſuch, felony without Clergy, 27 *Eliz.* ~~26.~~ 2.

Witchcraft.

Witchcraft, or Conjuration, or invocation of evil Spirits is felony, 1 *Jac. ca.* 12.

Falſe Propheſies.

The publiſhing of phantaſtical or falſe Propheſies to raiſe rebellion, diſſention, loſs of life, or other diſturbance in the Kingdome; for the firſt offence he forfeits 10 l. ſecond offence all his goods, and impriſonment for life, 5 *Eliz.* 15.

Swearing and curſing.

Prophane ſwearing and curſing, the offender forfeits 12 d. to the uſe of the poor of the place where the offence was committed, 21 *Ja.* 20.

Perjury.

The committing or procuring wilful perjury forfeits 20 l. and diſabled for a witneſs, and to ſtand on the Pillory, 5 *Eliz. ca.* 9. 14 *Ed.* 11.

Profaning Lords days.

Profaners of Lords days by any paſtimes or ſports whatſoever, or by voluntary work, as Shoo-makers forfeits 3 s. 4 d. Drovers, Butchers forfeit 6 s. 8 d. 1 *Car.* 1. 3 *Car.* 1.

Diſturbing

Disturbing a Minister.

Disturbing Preachers in Sermons or Divine Service, three months imprisonment and good behaviour, 1 *M.* 3.

Depraving the Sacraments.

Contemners and depravers of the blessed Sacrament of the body and bloud of Christ in word or actions, within three months, imprisonment and fine at discretion, 1 *E.* 6. 1 *Eliz.* 1.

Derogating from the Book of Common-Prayer.

Any person or Minister derogating from the Book of Common-Prayer, or not using the same, or administring the blessed Sacrament in any other form then is there appointed, the first offence is loss of promotion and one years imprisonment; the second offence deprivation and imprisonment for a year; the third offence deprivation and imprisonment for life, 1 *Ed.* 6. 1. 2 & 3 *Ed.* 6. 1. 1 *El. cap.* 2. 23 *El. c.* 1.

Justices of Oyer and Terminer, and of Assise, may hear and determine.

Or maintaining any Minister in the same, or that shall interrupt the publick service in the Church; the first offence 10 l. and if not paid within six weeks, he shall suffer three months imprisonment; the second time 20 l. and six months imprisonment; the third time forfeit goods, and imprisonment for life, 2 & 3 *Ed.* 6. 1.

12 d. a Sunday not coming to Church.

The not repairing to Church upon every Sunday and holiday weekly, there abiding ſoberly all the time of Divine-ſervice, if they be of the age of 16 years, forfeit 12 d. for every Sundayes abſence, 1 *El.* 2. 23 *El.* 1. 3 *Jac.* 4.

Recuſants.

The not repairing to Church for the ſpace of one month together, forfeits 20 l. a month, or two parts of the offenders lands, 1 *El.* 2.

School-maſters.

The keeping any School-maſter not reſorting to the Church, or allowed by the Ordinary, forfeits 10 l. a month, and that School-maſter diſabled, and one years impriſonment, 23 *El.* 1. 3 *Jac.* 4.

Striking in Church or Church-yard.

The malitious ſtriking with any weapon or drawing any weapon in Church or Church-yard, the offender to loſe one year and marked with the letter ſtat. 5 *Ed.* 6. *c.* 4.

The keeping of Fair or Market in Church or Church-yard, fine at diſcretion. 13 *Ed.* 1. 6. *Lam.* 419.

Petty-Treaſon.

The ſervant killing his Maſter or Miſtreſs, the wife her husband, the Clerk his Ordinary, is Petty-Treaſon, 1 *E.* 6 *c.* 12.

Murder.

The taking away any mans life upon malice forethought or poiſoning any, is murder. 1 R. 6. *c.* 12.

Stabbing.

Stabbing.

The ſtabbing any that hath not his weapon drawn, or hath not firſt ſtrucken the party ſtabbing, ſo as he dye within ſix months, no Clergy to be allowed for this offence, though but Man-ſlaughter, ſtat. 1 *Jac. c.* 8.

Se defendendo, per infortunium.

Killing any man in his own defence, or by Chance medly, the party forfeits all his goods, and to be impriſoned untill he ſue out his pardon of courſe.

Cutting out of Tongues.

The cutting out of the tongue, or putting out of eyes of any the Kings Subjects maliciouſly, is felony by ſtat. 5 *H.*4.*c.*5.

Buggery.

Committing the deteſtable ſin of buggery with man or beaſt, is felony without Clergy. ſtat. 25 *H.*8.*c.*6. 5 *El.*17.

Rape.

The forcing or raviſhing any woman above 10 years of age, or carnally knowing any under, is felony without Clergy, ſtat. *weſtm.*2. *c.*34. 18 *El.* 7.

Marrying two Wives.

The taking a ſecond husband or wife, the firſt being alive is felony, unleſs the one hath been above the ſpace of 7 years beyond Sea, &c. ſtat. 1 *Jac.*11.

Robbery.

The robbing any man upon the high-way, cutting a purſe, or taking above 5 *s.* out of any dwelling-houſe in the day time, or breaking any dwelling-houſe in the night, with a

felonious

felonious intent, which is burglary, and ſtealing of horſes or mares; all theſe are felonies without Clergy. 8 *Eliz.* 4. 5 *Ed.* 6. 9. 23 *H.*8. *c.*1. 39 *El.* 15.

Felony.

Taking any mans goods with an intent to ſteal them, is felony, if above 12 d. and if under 12 d. petty larceny.

Burning houſes.

The burning malitiouſly any dwelling-houſe or barn, having grain or corn therein, is felony without Clergy. 4 *&* 5 *P. & M.* 4.

Servants embezelling Maſters goods.

The ſervants embezelling their maſters goods is felony, if it be to the value of 40 s. and the party 18 years of age being truſted with it, unleſs he be an apprentice, 22 *H.*8. 7. 5 *El.*10.

Hunting in the night.

The unlawful hunting by night in Parks or Warrens, and denying the ſame upon examination is felony by the Statute 1 *Hen.* 7. *cap.* 7.

Aſſemblies to alter Laws and throw down Encloſures.

The rebellious aſſembly of 12 perſons or above, being aſſembled, and intending to go about a practice with force, unlawfully to change any Laws of this Realm, or forcibly to caſt down any incloſure, to have any common or high-way there, or do any ſuch unlawful act, and being commanded by the Sheriff or any Juſtice of Peace by Proclamation to depart, and yet have continued toge-

ther,

ther one hour after; or if any have cauſed to be raiſed to the number of 12 perſons or above to ſuch intent, and being commanded by proclamation, and yet have ſo continued together an hour after; or if any have delivered virtually money or weapons to any ſuch perſon ſo aſſembled, or have hindred any that went to make proclamation, this is felony *per Stat. 1 Mar. c. 12. 2 El. c. 16.*

Acceſſories before and after.

All counſellors or procurers before the felony, and all aiders and receivers after the felony, knowing the ſame, are acceſſories.

Extortion in a Coroner.

Any Coroner that takes above 13 s. 4 d. for the view of any dead body; and upon the murtherers goods, or of the town from whence he eſcaped, he forfeits 5 l. *3 H. 7, cap. 1.*

In a chief Conſtable.

Any perſon that takes above 2 d. for regiſtring any ſervants teſtimonial upon his departure from one place unto another, fine at diſcretion. *5 El. 4.*

Extortion in an Ordinary for probate of Wills.

Any Ordinary or his Clark that takes above 6 d. for the probate of a Will, or 6 d. for Letters of Adminiſtration, whereof the goods of the Inteſtate exceeds not 10 l. and not above 3 s. 6 d, where they exceed not 40 l. or 5 s. for both, or a penny to the Scribe for every line of 10 inches, loſeth 10 l. and to the party ſo much as he hath paid. *21 Hen. 8, cap. 5.*

Clark

Clark of the Market and other Officers.

Any Clark of the Market, Clark of the Peace, Juſtices Clark, or Sheriffs Clark, or Bailiffs or other Officers that take above their due fees, 23 *H.*6.10. 1 *Ed.* 4.2. 12 *H.*7.15. 42 *Ed.*3 9. 27 *El.*7. 27 *H.*4. 5 *E.*6.25. 7 *H.* 7. 3. 7 *H.* 7.4.

Hue and Cry.

Hue and Cry raiſed unjuſtly, or not being followed when well raiſed, 3 *E.*2.*c.*9.

Watch.

Watch not ſet in any Town between Aſcenſion-day and Michaelmas, 2 *Ed.*2.

Going armed.

Riding or going armed in affright of the Country, is impriſonment and loſs of armour, 2 *Ed.*3.*cap.*3.

Eſcape.

Eſcape negligent of any Priſoner arreſted for felony, 1 *R.* 3. *c.* 3.

Barrettors.

Common Barretors, or maintainers of ſuits, Embracers of Jurors, muſt ſuffer impriſonment and good behaviour. 34 *E.*3 1. 33 *H.*8. 10. 37 *H* 8. *c.*7.

Forcible Entries.

Forcible entries, or detainers of poſſeſſions by force, fine and impriſonment, ſtat. 8 *H.* 6. 4.

Cutting ponds.

Cutting of pond-heads, taking of fiſh, hawks, or hunting deer or conies againſt the owners will in any warren or ground incloſed, three months impriſonment, and good Behaviour

haviour for seven years, 5 *Eliz.* 21. 3 *Jac.* *ca.* 13.

Tracing hares.

The tracing hares in the snow, or killing them by any engine, the taking of pheasants or partridges by Net, or any other device, as also hawking and hunting in eared corn; forfeiture for every pheasant 20 s. for a partridg 10 s. for hawking 40 s. 11 *H.* 7 *c.* 17. 23 *El.* 10. 7 *Jac.* 11. 1 *Jac.c.* 17.

Foreſtalling.

Foreſtalling, which is intercepting of corn, and buying it coming to the market before it come there, 5 *Ed.* 6. *c.* 14.

Ingroſſing.

Ingroſſing, which is the buying any corn or commodities with intent to ſell again.

Regrating.

Regrating, which is the buying of any commodity in any Market, and ſelling it again in the ſame, or in any other market within four miles of the ſame; the firſt offence loſs of goods, and two months impriſonment; the ſecond offence double the goods, and ſix months impriſonment; the third offence is loſs of goods and pillory, 5 *E.* 6. 14. 5 *El.* 12. 13 *El.* 12.

Deſtroying the egges of Wild-fowl.

The taking or deſtroying the eggs of any wild-fowl uſually eaten, before the firſt of *March* and the laſt of *June*, or the fry of fiſh, impriſonment for a year, and loſe for every egg, 25 *H.* 8. 1. 3 *Ed.* 6. 3. 1 *El.* 17. 14 *El.c.* 1. 27 *El.c.* 11.

Drun-

Drunkenneſs.

Any perſon convicted of drunkenneſs forfeits 5 s. to the poor, ſtat. 4 *Jac.* 5.

Butchers, &c. ſelling victuals at immoderate prices.

Butchers, Inholders, Brewers, Bakers, Tiplers, or other ſellers of Victuals, at immoderate prices, or that put off any corrupt or unwholſome victuals, are to loſe double what they take, 13 *R.* 2. *c.* 8. 2 & 3 *Ed.* 6. *c.* 15. If it be done by conſpiracy, the firſt offence 10 l. and 20 dayes imprisonment, the ſecond offence 20 l. and pillory, the third offence 40 l. and the loſs of one ear.

Veſſells of Wine, Ale, &c.

The Veſſels of ale, wine, beer, or oil not being of the full ſtandard; the barrel for beer muſt be 36 gallons; and for ale, wine, and oil 32. fine is 40 s. *per ſtat.* 1 *R.* 3. 13. 2 *H.* 6. 11.

Alehouſes diſorderly.

Any Alehouſe being diſorderly, or not keeping the aſſiſe of ale and beer, in not ſelling a full quart of ſtrong, and two quarts of ſmall for a penny, or any other brewing without licence; 20 s. for every offence, and diſabled for three years, 4 *Jac.* 5. & 1 *Jac.* 9. loſe 20 s. for the firſt offence, and for the ſecond offence houſe of Correction, 3 *Car.* 3. 5 *E.* 6. three dayes impriſonment without bail.

Falſe weights and Meaſures.

The buying or ſelling by falſe and unſigned weights and meaſures, the firſt offence 6 s. 8 d.

6 s. 8 d. ſecond offence 13 s. 4 d. third offence ſtand on the Pillory, 11 *H.*7.4.

Artificers conſpiring, &c.

Artificers conſpiring to work but at certain rates, the firſt offence 10 l. or 20 dayes impriſonment with bread and water, ſecond offence 20 l. or ſtanding on the pillory, third offence 40 l. or loſs of an ear, 3 *Ed.*6. 5.

Guns.

Uſing or having of Guns or Croſs-bows againſt Law, or ſhooting hail-ſhot in them, forfeits 10 *l.* for every offence, 3 *H.*8.6.

Servants.

Retaining ſervants for leſs then one year or they refuſing to ſerve if they be compellable; or their departing, or being put away without a quarters warning, or the allowance of a Juſtice of Peace. Giving or taking greater wages then is allowed; or departing from one town to another without a teſtimonial, or not finiſhing a work begun, or not continuing ſo many hours, being hired by the day or week as is appointed, or taking an apprentice, or uſing any art not having been an Apprentice for ſeven years, *Stat.*5. *El.*c 4.

Bridges and High-wayes.

The Bridges or High-wayes being out of repair and by whoſe default. Conſtables and Churchwardens not calling their Pariſh together every *Eaſter*-week, to appoint ſix dayes for amending the ſame, 22 *H.*8. *cap.*5. 2 & 3 *P.* & *M. cap.* 8. 5 *Eliz.* 15. 18 *Eliz.* 9. 27 *Eliz. cap.* 11.

Unlawful Games.

The using or maintaining unlawful games, as Cards, Dice, Bowling, Coyting-close, &c. Fine 40 s. for one day, 6 s. 8 d. for every time, 33 *H.* 8. *cap.* 9.

Bowes and Arrowes.

Persons under the age of 60 years, not having Bows and Arrows in his house for himself, servants and children; and inhabitants of any town not continuing their Buts, 33 *H.* 8. 9. Fine 6 s. 8 d. fine 20 s.

Cottages. Inmates.

Erecting a Cottage without laying 4 acres of arrable land unto it; or entertaining or receiving Inmates, forfeits for erecting 10 l. for continuing 40 s. a month, 31 *El.* 7.

Now seeing *Justitia est duplex, viz.* The punishing part, and the preventing Justice, the premisses only touching the former, therefore the conclusion shall point something at the latter, with a direction how it may be effected: We find by experience that it is not frequent punishment that prevents offences, *præstat cautela quam medela*, it is better preventing then redressing offences. This preventing Justice consists in three things (according to a learned Author of our Laws. *Co.* 3. *Inst. Epilogue*).

First, in the good education of youth, which ought to be by instruction in the knowledg of Religion, and by learning some trade in their tender years, so as there should not be an idle person, or a begger according to the Scripture,

Deut.

Deut. 25. 4. But that every child whose Parents are poor, might at the age of seven years earn their own living; and this for the time to come, would by preventing Justice avoid idleness in all, which is the *mare lethum* where so many souls perish, and by honest trades cause them to become good members in the Commonwealth.

Secondly, in the execution of good Laws, which are already enough to punish idleness, but none of sufficient force to set idle people or youth on work.

Thirdly, too frequent pardons, which make many offend in hope. This preventing Justice is better then punishing Justice, as obedience is better then sacrifice, for in sacrifice we do but repent of sin, but in obedience we prevent sin, and it is better preventing then repenting sin. And therefore worthy every mans consideration and endevour to promote this preventing Justice according to such good Laws as are already in force.

FINIS.

C. W. P. S.
12/1/04